



REPORT
OF THE
WORKING
GROUP
ON
SEANAD REFORM
2015

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MEMBERSHIP OF WORKING GROUP

Dr Maurice Manning , Chair
Chancellor, National University of Ireland, and former Leader of Seanad Éireann,

Ms Mary O'Rourke.
Former Minister and former Leader of Seanad Éireann

Mr Joe O'Toole
Former leader, Independent Group in Seanad Éireann

Dr Maurice Hayes
Former Senator, former Northern Ireland Ombudsman and former Chairman of the National Forum on Europe

Mr Pat Magner
Former Labour leader in Seanad Éireann

Dr Mary C. Murphy
Lecturer in Politics, University College Cork.

Dr Elaine Byrne
Commentator and author on public policy

Mr Tom Arnold
Former Chairman of the Constitutional Convention.

TERMS OF REFERENCE

The terms of reference and membership of the Group are detailed in Appendix 1 but in summary the Working Group was given a clearly focussed remit by Government to

- (i) explore ways of reforming Seanad Éireann and
- (ii) the manner in which it carries out its business

The Working Group was asked to consider submissions and previous proposals for reform and also to look at:

- the role of a reformed Seanad within the political process;
- the powers and functions of a reformed Seanad;
- the method of election/selection of members of a reformed Seanad; and
- any such matter as the Working Group sees as relevant.

The Group was asked to report back by the end of March 2015.

MEETINGS

The group met formally on seven occasions

Other meetings included:

Five meetings with Mr Michael McDowell SC

Two meetings with Mr Brian Hunt BL

Four meetings with National Cyber Security Centre

Two meetings with Professor Joe Carthy, Dean of Science UCD

Meeting with IBM Ireland

Meeting with Ms Deirdre Lane, Clerk of Seanad Éireann

ACKNOWLEDGEMENTS

The Working Group recognised from the outset that expert advice and support would be necessary to guide it in addressing specialised aspects of its terms of reference.

The Group was particularly concerned that its recommendations be constitutionally sound and legislatively implementable. In this regard we deeply appreciate the work of Mr Michael McDowell S.C. in acting as our legal and constitutional adviser and we thank Mr Brian Hunt B.L. for his expertise in preparing our draft legislation.

The recommendation of the Working Group that new technology be introduced into the electoral process has been developed, tested and assessed by the National Cyber Security Centre. This has involved a considerable amount of work which has been enormously helpful to our thinking. In particular the Working Group would like to record its thanks to Commandant Kevin Foley, Technical and Policy Specialist, National Cyber Security Centre, Dr Cormac Doherty UCD, and to the Deputy Chief of Staff of the Defence Forces, Maj Gen Ralph James.

The Group also received very considerable assistance and advice from Professor Joe Carthy, Director, UCD Centre for Cybercrime Investigation and Dean of Science at UCD.

Our work was greatly assisted by IBM and especially by Mr Peter O'Neill, Country General Manager IBM Ireland, Mr Denis Kennelly, Vice President Security Systems Development and Technology, Ms Mary O'Brien, Vice President Development IAM, Infrastructure and Xforce Security and Mr Patrick Wardrop Senior Technical Staff member, IBM Security.

We would like also to thank Mr Brian Honan of BH Security for his helpful advice at an early stage and Mr Donal Quinn of *Scytl Innovating Democracy*, Barcelona for his assistance on online voting technology.

The advice and deconstruction of the complicated nominations process provided by Ms Deirdre Lane, Clerk of Seanad Éireann is also much appreciated.

In a special way we would like to record our appreciation to those who made submissions to us. It was reassuring to rediscover such energy and support for our deliberations.

We wish also to thank Mr Mike Burns for his help in copy editing.

The Working Group would like to express its thanks to the above all of whom were happy to provide their help on a pro bono basis.

Finally a very warm word of thanks to Ms Mary Timmins of the Department of the Taoiseach who acted as Secretary to the Group in a very effective and professional way. We would also like to thank Ms Sharon Finegan of the Department of the Taoiseach.



PART 1
EXECUTIVE SUMMARY AND
RECOMMENDATIONS

PART 1 EXECUTIVE SUMMARY AND RECOMMENDATIONS

PREFACE

The Working Group saw as its principal objective the restructuring and reforming of Seanad Éireann to bring it into line with international best practice for Second Houses of Parliament in the 21st Century.

From the outset the Working Group saw three main problems with the present structure:-

- an electoral system which was elitist and which disfranchised a majority of citizens
- a constitutional concept of vocational representation which had little substance in practice
- the absence of clear defining guidelines or public understanding of Seanad Éireann's distinctive role in Irish political life .

The terms of reference of the Working Group stipulated that all proposed changes should be within the framework of Bunreacht na hÉireann .

In practical terms this meant :

- the retention of the vocational concept in the filling of 43 of the 60 seats
- the continuation of university representation, though now from a greatly enlarged constituency
- the retention of eleven seats nominated by the Taoiseach
- the stipulation that all voting be by secret postal ballot.

The Working Group concluded that these factors, though restricting its freedom of action do not hinder meaningful reform.

The Working Group defined three fundamental principle which must underpin any meaningful reform

- **Popular Legitimacy** - a reformed Seanad must be seen by Irish citizens as having a legitimate voice and role in the political process,
- **Adequate Powers and Functions** – a reformed Seanad should have distinctive and adequate powers and functions to make a discernable contribution to the parliamentary process
- **Distinct Composition** – a reformed Seanad should be distinct in its composition and its electoral process should be designed accordingly.

ELECTIONS TO REFORMED SEANAD

Based on these principles the Working Group concluded that a parliamentary assembly such as Seanad Éireann whose electoral system excluded the majority of its citizens from participation lacked popular legitimacy. To remedy this situation

- (i) **the Working Group recommends that a majority [thirty] of the Panel seats be elected by popular vote on the principle of one person one vote. (pg 26)**

The Working Group is conscious that inter alia the recent referendum result ensured the continuation of six seats elected by university graduates. The Working Group also notes that the implementation of the 1979 Amendment to the Constitution will add significantly to the number of citizens eligible to vote on the university panel.

The Working Group noted the recently published *General Scheme of the Seanad Electoral [University Members] [Amendment] Bill 2014* and is of the view it would appear complementary to the Working Group's recommendations to introduce a popular franchise for Seanad General elections.

(ii) On the basis of the principle of one person one vote the Working Group recommends that citizens who are eligible to vote in the university constituency must opt to vote either in that constituency or on one of the five panels available to all citizens (pg 33).

(iii) The Working Group believes that the principle of one person one vote be extended to include Irish citizens in Northern Ireland and to holders of Irish passports living overseas (pg 28-30)

The Working Group is aware of the logistical and verification difficulties which have been offered against the feasibility of proposals to extend the electorate in the past. However after much deliberation and extensive expert advice believes that in the light of modern technological advances a system of online registration of voters and downloading of ballot papers may safely be recommended.

(iv) It believes such a system to be secure in its confidentiality and integrity and recommends the adoption of such a system in tandem with the existence of the constitutional requirement of secret postal voting. The Working Group recommends that this system be subject to continuing expert monitoring (pg 33 & 34 and appendices 3 and 4).

(v) The Working Group is aware that online skills and usage are not universally available and recommends that voter registration and distribution of votes be made available through county councils and local libraries and other public bodies in the Republic (pg 33 & 34).

The Working Group accepts the widely expressed view that in its membership profile Seanad Éireann lacks a distinctive identity, too closely reflects that of Dail Eireann and fails to realise the constitutional ambition to create a largely vocational chamber which would represent a diversity of views, minority voices and specialist experience. To achieve a more balanced and vocational representation in Seanad Éireann

(vi) the Working Group recommends:

That 36 of the 60 seats be directly elected from five vocational panels and from the university constituency .

That 13 of the 60 seats be indirectly elected from an electoral college of all elected county and city councillors, TDs and outgoing Senators (pg 30).

(vii) The Working Group is of the view that the concept of vocational representation be retained but modernised. It recommends legislative change with a view to ensuring access to nomination for as a wide a range of candidates as is necessary to reflect the complexity and diversity of modern Irish society.

The Working Group recommends that the level of knowledge and practical experience required of candidates in the Constitution be defined in legislation (pg 32).

POWERS AND ROLE

- (vii) **The Working Group believes that a clear statement of the constitutional role of the Seanad as subordinate to the Dail but with a very special and distinct role in the legislative and political process is a proper starting point for a redefinition of the role and contribution of the Seanad (pg 20).**

The Working Group recognises that in recent years Seanad Éireann has, of its own volition sought to augment the role and functions of the House and believes that these innovations provide a sound starting point for a clear definition and consolidation of the ways in which Seanad Éireann can make a distinctive contribution to the work of the Oireachtas.

The Working Group is clear that the primary function of the Seanad is the scrutiny, amendment and initiation of legislation and

- (viii) **recommends that adequate research and back-up resources be available for this purpose (pg 22).**

- (ix) **The Working Group also recommends that the Seanad give particular attention to:**

- **Give consideration to North-South Ministerial Council proposals**
- **Give consideration to Secondary Legislation of the EU**
- **Consult with relevant bodies prior to and during Second Stage debate**
- **Investigate and report on matters of public policy interest**
- **Consider reports from regulators and other statutory inspectors (pgs 22-24).**

- (x) **The Working Group recommends the establishment of an interim implementation body as a matter of urgency. Such a body would be situated in the Department of the Taoiseach, have an independent chair and relevant expertise and be charged with the implementation of the changes outlined in this Report and publish progress reports on a regular basis. The Working Group recommends that the Clerk of the Seanad be a member of this body (pg 36-37).**

Mindful of the pressure on Government Departments in the matter of drawing up legislation, the Working Group decided that it would be both expedient and helpful to include a draft Bill as part of its final Report. As its final act, the Working Group has set in train the drafting of a Bill to implement the relevant recommendations in this Report. That Bill will be available within the next four weeks.

- (xi) **The Working Group recommends:**

- (i) **that the Bill be published and presented to the Oireachtas before the Houses rise for the Summer recess.**
- (ii) **that the Bill be signed into law before the end of this calendar year and**
- (iii) **that the commencement date for the new arrangements be immediately following the next Seanad General Election.**

The Working Group is aware that the Seanad Éireann which would result from the implementation of the changes it recommends will be a political chamber, as any House of Parliament must be, but it will not be dominated or controlled by political parties. It will have to find its own way of ordering its affairs such that it is not seen as a roadblock to the will of the Dáil but adds value to the political and parliamentary process.

- (xii) **The Working Group recommends that the Interim Implementation Group look to providing guidelines from international best practice which would be helpful to the new Seanad in its early days.**



PART 2
**INTRODUCTION AND
GUIDING PRINCIPLES**

PART 2 INTRODUCTION AND GUIDING PRINCIPLES

In October 2013 the Irish people voted on the future of Seanad Éireann. The vote was 51.7 per cent in favour of retaining the Seanad, 48.3 per cent for its abolition.

Two clear messages emerged from this result and from the campaign which accompanied it – the clear loss of confidence of a very large minority in the Seanad and a very strong conviction among its defenders that the Seanad as constituted needed radical change. This message was repeated in the overwhelming majority of submissions received by the Working Group and in previous reports on Seanad reform. In fact, no case was made to the Working Party for a retention of the status quo.

This Report is founded on the conviction that radical change is needed and its objective is, as far as constitutionally possible, to address this challenge.

Our terms of reference required us to consider what was possible within the framework of Bunreacht na hÉireann and this has defined our work.

We are also very conscious of the fact that the role of Second Chambers is a topic of continuing controversy in a number of other jurisdictions. Some countries have abolished their Second Houses, others have modified and adapted. We found the definition of the contemporary role of Second Houses and the principles which should underpin such a House as described by a leading Political Scientist, Dr Meg Russell, School of Public Policy Department, University College London, to be a helpful and generally acceptable guide:

POPULAR LEGITIMACY – a reformed Seanad must be seen by Irish citizens as having a legitimate voice and role in the political process.

ADEQUATE POWERS AND FUNCTIONS – a reformed Seanad should have distinctive and adequate powers and functions to make a discernible contribution to the parliamentary process.

DISTINCT COMPOSITION – a reformed Seanad should be distinct in its composition and its electoral process should be designed accordingly.

In framing our report we were very conscious of the unique position of the Seanad within the Constitution. Seanad Éireann is first and foremost a House of the Oireachtas, and an integral part of the legislative and governmental system. Its primary role has to be to scrutinise, amend, initiate and, if necessary delay legislation. These functions have to be at the very heart of everything it does and must not be diminished or impeded.

But it is also important to stress that within the Bunreacht the Seanad is not an equal partner with the Dáil. As Appendix 2 makes clear it is subordinate to the Dáil in many respects and in case of conflict it is the will of the Dáil which must prevail.

This point is fundamental to a clear defining and elaboration of the specific functions and role of the Seanad in adding value to the political, legislative and governance processes. These functions and roles are explored and outlined in Part 4 of the Report. The Working Party had no hesitation in concluding that the Seanad has a major role to play in enriching legislation, public policy, scrutiny of governance and matters relating to Northern Ireland and the EU.

One of the major themes of the referendum was the absence of democratic legitimacy and the exclusivist and elitist nature of the electorate in the electoral process. To address these issues we propose extending the franchise to all current Irish citizens in the Republic, Northern Ireland and overseas. We make specific recommendations in Part 5.

Article 18.5 of the Constitution lays down that election to the Seanad shall be held on the system of proportional representation by means of single transferable vote by secret **postal** ballot.

The use of postal voting is a constitutional imperative and in the context of the Working Groups's desire to see voting rights extended to all Irish citizens it is an obstacle but not an insurmountable one. The Working Group is of the view that practical and logistical challenges can be surmounted through use of the internet in a way that ensures the confidentiality of voter identity and through a system that is secure. In coming to this conclusion we have consulted with leading experts in cyber security. We recognise that the use of any such system will require continuing expert monitoring.

The Working Group was very conscious of the constitutional endorsement of vocational principles in the electoral arrangements for the 43 Panel seats. The Working Group understands the purpose of the framers of the constitution was to introduce an element of expertise and non-party representation to the Upper House and seeks to protect and make a reality of this aspiration in the report.

We are very conscious that earlier reports on Seanad reform have not been followed up with action. Previous efforts have lacked credibility because of the failure of governments to engage seriously in the reform process.

To ensure that this does not happen and that the process has public confidence we ask that the implementation of this report be led by the Department of the Taoiseach and supervised by an interim implementation body with external membership and if the Report is adopted that steps be taken as a matter of urgency to set up such a body. We discuss this further in Part 6.

We have set out to present a succinct report with practical and implementable recommendations. Sixty nine submissions were received from the public, political parties and civil society groups. All of these have been carefully examined as have the conclusions and commentaries of previous Seanad reform reports.

A number of recurring themes permeate these reports. Among the most frequent was the criticism that ordinary citizens were excluded from engaging with the Seanad and that the connection between the Seanad and local communities had withered.

Also prominent was the view that the concept of a House of expert and specialist Senators had been lost, as was the role of the Seanad in providing a voice for representatives of the Irish Diaspora and of a Northern Ireland dimension. The complexity and elitist nature of the electoral process was a major source of contention.

These issues were the main focus of the Working Groups deliberations along with our concern to ensure a Seanad that added genuine value to the legislative, public policy, governmental and overall democratic process. Arising from that work the Working Group took the view that its recommendations should be informed by the following principled objectives:-

- To develop and strengthen the vocational nature of the Seanad
- To make possible the participation of all Irish citizens in Seanad general elections
- To establish a franchise for Irish emigrants who are Irish citizens
- To allow the electoral participation of those normally resident in Northern Ireland
- To maintain the link between national and local politics through an electoral college of elected representatives
- To modernise the registration and electoral process in a way that is secure and using the most appropriate and up to date modern technology



PART 3 HISTORICAL BACKGROUND

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THE SENATE OF THE IRISH FREE STATE

The Irish Free State Senate came into existence with the foundation of the Irish Free State in 1922 and remained in existence until its abolition by vote of Dáil Éireann in 1934, the implementation of which decision was delayed by a Senate veto until May 29th 1936.

There were two main reasons in 1922 for the decision to establish a Second House. The first was a generally accepted view in the 1920s that a second chamber with the power to initiate, scrutinise and delay legislation was an important democratic check against over-hasty or autocratic government legislation and would give parliamentary expression to a range of views and expertise not always to be found in a popularly elected lower house. The second reason was on foot of promises made during the Treaty negotiations to ensure adequate representation for the Southern Unionist minority.

The Free State Senate had sixty members, partly nominated by the President of the Executive Council and then at various times elected in a variety of different ways – at first directly by Dáil Éireann, then by universal suffrage of all electors aged thirty or over and later still by members of Dáil Éireann. Elections were not coterminous with Dáil elections with one quarter of Senators elected at three yearly intervals.

The role of the Senate was an almost exclusively legislative one. Legislation was rarely initiated in the Senate but it could and did accept amendments which were frequently accepted by government and it could delay legislation for nine months, a period later extended to eighteen months in the late 1920s. It is generally accepted that the Senate took this part of its work seriously. In all the Government accepted Senate amendments –some of them significant and many technical– to 37 per cent of legislation during this time and eight bills were rejected, two of which were subsequently dropped by the Government.

In its early days it was largely non party political. There was no leader of the house with the Cathaoirleach presenting government business and no party whips though there were informal groupings of pro-government and opposition senators.

With the entry of Fianna Fail and the intensification of party politics in the late 1920s this situation changed. Party groupings began to emerge on pro and anti Government lines and with it the emergence of the party whip, though many Senators continued to be non aligned.

Fianna Fail came into government in 1932 with the stated objective of either abolishing or down-grading the Senate. However, one of the first acts of the new President of the Executive Council was to appoint a government minister –Senator Joseph Connolly– from the Senate. This was the first of only three such appointments ever.

The relationship between the Senate and the new government was not harmonious though the Senate did accept most of the major legislative measures sent to it by the Dáil. However it rejected two major Bills sent to it thus ensuring the enactment of the proposals would be delayed for eighteen months. After the second such rejection the government in 1934 introduced a Bill to abolish the Senate, a measure passed by the Dáil but rejected by the Senate which delayed its implementation until May 1936 when the Free State Senate ceased to exist.

SEANAD ÉIREANN

It was with some reluctance that the government decided to retain the bi-cameral model in the new constitution, basing the new body in significant part on the minority report of a commission it had set up to examine the question of a new Second House.

The two most striking features of Seanad Éireann as outlined in Bunreacht na hÉireann was the retention of its essential role in the legislative process coupled with an explicit statement of its subordinate role to that of Dáil Éireann.

The other novel features of the new Senate was the introduction of the concept of vocational representation. This idea had been in vogue for some time and was strongly advocated by contemporary Catholic social theorists. There were few if any examples of functioning vocational parliaments in democratic systems but the essential theory was the composition of the Dáil based on universal suffrage would benefit from the expertise which a vocationally elected upper house would provide. All parties in 1937/8 declared their support for a 'non-party political' Seanad with strong vocational representation.

In terms of the actual role of the Seanad the Constitution provided for a significant role in legislation, including the right to initiate, amend and delay non-financial matters. It has a number of other distinctive functions outlined in Appendix 2, most of which have never been used.

Among the other distinctive features of the new Seanad was the creation of six university seats, three seats each elected by graduates of Trinity College and the National University of Ireland. This was, in part at least to replace the six Dáil seats from the universities which had been part of the Free State Dáil and had been abolished in 1936 and especially to assure a continuing parliamentary presence for ex-unionist interests.

The second new feature was the provision of eleven directly nominated members at the discretion of the Taoiseach. This was designed in part to ensure a government majority and to provide representation for distinguished or distinctive voices who would not normally be elected.

But the most striking and ultimately most defining feature of the new House was the electoral system for the 43 Panel seats. This was to be an electoral college made up of sitting TDs, outgoing Senators and varying numbers of county and city council members. This arrangement ensured that in reality the 'non party political' and vocational Seanad would be dominated by political parties and that its membership would not be significantly different to that of the Dáil.

REFORM PROPOSALS

To date eleven separate reports have been published on Senate reform, focussing mainly on its composition and electoral system. Many of the early reports were technical in nature but in recent times there have been two significant reports.

In 1996 the Constitution Review Group examined various aspects of the Seanad and recommended that a comprehensive independent review be carried out. This was subsequently commissioned by the All-Party Oireachtas Committee chaired by Jim O'Keefe TD, and on foot of it the Committee made several recommendations on the composition and functions of the Seanad. This Committee re-visited these issues in 2002 and largely reaffirmed the 1997 recommendations with some new proposals on the composition of the Seanad.

The most significant recent publication was that of the Seanad Éireann Committee on Procedure and Privileges sub-committee on Seanad Reform chaired by Senator Mary O'Rourke in 2004. This Committee made a series of radical proposals on many aspects of Seanad reform including some proposals for constitutional change.

The Working Group has found the O'Keefe and O'Rourke Reports to be of great value and the spirit and content of these reports have greatly assisted its work.

The Working Group greatly regrets the failure of successive governments to engage with and progress the recommendations of these reports

The Working Group is strongly of the view that there is space for the Seanad to carve out a more meaningful and substantive role in the political system. Legislative change, a more creative use of Standing Orders and a reformed electoral system combined with a willingness on the part of Government to fully engage with the Seanad can make for a stronger and more relevant Seanad but there is a clear need too for members to better exploit what powers are already at their disposal.

A changed mind-set [on the part of political parties and Seanad Members] has the potential to free the institution from some of the partisan, institutional and cultural binds within which it operates.



PART 4
ROLE AND POWERS
OF THE SEANAD

PART 4 ROLE AND POWERS OF THE SEANAD

CONSTITUTIONAL ROLE OF THE SEANAD

The Constitution is unequivocal about the role of the Seanad. It is first and foremost one of the two Houses of the Oireachtas and an integral part of the Legislative process. It is subordinate to the Dáil but not a rival. From the outset in both the first and second constitution it is seen as a body whose role is to complement and deepen the work of the Dáil rather than to frustrate it. The constitution has the expectation that the Seanad would add elements of expertise, experience and diversity not always achievable in the lower house.

The Seanad's primary role is the scrutiny, revision and initiation of legislation. It was intended as a check on Government but not as a road block.

RELATIONSHIP TO DÁIL

The Constitution requires that the Dáil and Seanad be distinct from each other. Whereas the functions of each House are complementary to each other it is clear nonetheless, that the Seanad be subordinate to the Dáil. No extension of Seanad voting rights and no amount of legislative change could ever make The Seanad equivalent to the Dáil nor convert it to a mini-Dáil. The Constitution spells this out with great clarity by emphasising the differences including, inter alia,:

- (i) the manner in which the Seanad is restricted in dealing with Money Bills;
- (ii) the fact that the Government is accountable to the Dáil and not the Seanad;
- (iii) the fact that the Seanad has no function in election of Taoiseach;
- (iv) the electoral process in which members of the Dáil are "representatives" (Art 16.2) representing geographical constituencies whereas the Seanad is Vocational;
- (v) that the Government does not require the confidence of the Seanad;
- (vi) that whereas the Dáil is dissolved as soon as the election is called the Seanad continues as the sole House of Parliament until midnight of the day prior to the count of the new Seanad general election;
- (vii) that whereas every citizen who has reached the age of twenty one years, unless otherwise disbarred is eligible for membership of the Dáil, eligibility for Seanad membership is different. To become a member of The Seanad a citizen has to be eligible for Dáil membership but must also meet additional Constitutional imperatives for Seanad eligibility. In the case of the Vocational Panels, for instance, this requires that there be an affirmative process ensuring that all candidates meet the appropriate level of Knowledge and practical experience for inclusion in the relevant panel.

These points and more are fully developed in the Constitutional issues Paper in Appendix 2.

CHECKS AND BALANCES

Seanad Éireann possesses a significant set of constitutional powers and vetoes which it can exercise independently of the Dáil majority and which act as a system of constitutional checks and balances on the de facto power of the Government of the day. These include:

- the right of initiation and the right of veto in a Presidential impeachment
- the right of initiation and the right of veto on the impeachment of judges
- the right of initiation and the right of veto on the removal from office of the State's financial watchdog, the Comptroller and Auditor General
- the right of veto over the declaration of a state of emergency

- the right of veto over the surrender of certain of the State's sovereign rights under provisions of the EU treaties
- the right of veto over the exercise certain of the State's important options and discretions under the EU treaties
- the right to petition the President to refer controversial Bills to the People

POWERS AND FUNCTIONS OF REFORMED SEANAD

The issue of parliamentary reform and adapting to the requirements of a changing society is almost a universal theme in all parliamentary democracies. In this context the existence and role of Second Chambers is sometimes of central importance.

Traditionally, in both the constitutions of 1922 and 1937, the Seanad was defined largely in terms of its legislative role, with significant delaying powers in 1922 and minimal such power in 1937. But it is important to note that changing or examining the shape of political structures is not unique to Ireland. The fact that the number of National Parliaments made of two chambers continues to rise from less than 40 in the 1970's to nearly 80 now. *".. while some 45 countries had a two-chamber legislature in the early 1970s, today this number has risen to nearly 80"* (French Senate Paper at Forum of World's Senates, Paris, March 14th, 2000)

This global growth of Bicameralism has resulted in a more focused examination of the role of Second chambers around the world.

The original concept of the Seanad also envisaged it as a forum where minority and specialist voices would be heard. Whereas the Dáil represents the population at large, the Seanad should reflect National diversity.

A desk study conducted by the Working Group of Second Chambers in Europe and beyond has been of guidance. It is clear that Seanad Éireann in its fundamental constitutional role including, inter alia, as a guarantor of the Constitution and playing a part in the separation of powers acts in a manner replicated by second chambers in many other countries.

The Working Group stresses their support for the primacy enjoyed by Dáil Éireann in the Irish parliamentary system. This feature of the Irish Oireachtas is in line with practice elsewhere and is particularly applicable to parliamentary systems in the Westminster tradition. Importantly however, the Working Group is of the clear view that the primacy of the lower house is not necessarily synonymous with a weak upper house.

With the passage of time and with the growing complexity and volume of legislation, the emergence of significant developments in Europe, Northern Ireland and international affairs, increasingly sensitive and controversial moral and social issues and a growing public demand for more open and transparent deliberation of a wide variety of matters the Seanad began, on its own volition, to expand its own role in face of such developments.

The Working Group supports this process and proposes that the Seanad has a broad range of formal and informal powers at its disposal which have not been fully exploited or are currently under-utilised.

The Working Group acknowledges that over the past few decades the Seanad has sought to increase its own involvement in debating and listening to outside views on such issues and has introduced a number of important innovations towards this end. There has been little public acknowledgement of these developments. The Working Group believes that these innovations provide a sound starting point for a clear definition and consolidation of the ways in which Seanad Éireann can make a distinctive contribution to the overall work of the Oireachtas.

In practical terms this means that the primary role of the Seanad is dealing with legislation in all its aspects from initiation to periodic review of its consequences and it must affirm through its own standing orders and practice that its legislative process is informed, reflective and open to the views of civic society in its widest sense. The Working Group is clear that this objective is aided by the presence among its membership of diverse, distinctive and specialist voices.

The Working Group also recognises that in refining and strengthening the role of the Seanad, a stronger institutional support system must be prioritised. Seanad members should have access to adequate research services, specialist support services, training facilities and modern technological facilities.

The Working Group notes the observation expressed in the 2004 O'Rourke Report on Seanad Reform that the Seanad should be 'a House of influence and persuasion'. It should seek to convince by force of argument and logic rather than compel by weight of numbers and formal powers. What is clear from the public consultation process is that there is no desire to reform the Seanad in a way that brings it into head-on confrontation with the Dáil. All efforts should be made to avoid legislative gridlock.

The Working Group believes that in addition to having a distinctive electoral process and membership an effective Upper House must also have a distinctive role and distinctive set of functions. In those areas where the Seanad has responsibilities parallel to those of the Dáil, as especially in legislation the Seanad must challenge, inform and improve rather than be a negative and blocking influence. The role of the Seanad should be to take a different perspective and reflect an independence of thought and to be complementary to the work of the Dáil.

In response to its remit to consider the role of a reformed Seanad within the political process the Working Group examined how the Seanad might extend its political reach and input.

Whereas the Dáil may at times be a pressurised chamber of national politics galvanised by the topical and pressing issues of the day the Seanad should be in a position to take a broader and more panoramic view. In this regard those members elected through the indirect system will bring a distinctive regional and practical perspective to debates. It was in this context that the Working Group considered a range of issues such as extending the franchise to Northern Ireland and the diaspora and also having a structures engagement with European Union developments. A strengthening of the vocational concept should provide new levels of experience and specialisation.

The Working Group anticipates that the reformed electoral process and the broadening of the franchise for elections to the Seanad will enhance the legitimacy of the institution. The substance of public support places a greater onus on members to maximise their role in the legislative and policy process and to use existing powers to greater effect.

Listed below are some of the areas that could be given added political value by the Seanad. The list, which is not exclusive ranges widely over politics, economics, legal and social, international and European, climate issues and the longer term implications of policy decisions.

The potential benefits of the Seanad playing a more robust role in the legislative process and in the political life of the state are considerable. They include broader representation; better legislation; greater accountability; and efficiency gains.

REVISE, REVIEW AND CONSOLIDATE EXISTING LEGISLATION.

Legislation is constantly being revised and amended resulting in acts amending sections of previous acts

which themselves have already been amended. Consequently the body of legislation in some areas has become extraordinarily complex and almost inaccessible. The Seanad could play an important role in filtering Irish legislation with a view to modernising what is out of date or consolidating where the core principles of the Acts are lost in the complexity of the amending legislation.

SCRUTINY OF EUROPEAN POLICIES AND DIRECTIVES

The 2004 Report on Reform of the Seanad lists four specific recommendations in relation to 1) assessing EU legislation and proposals; 2) reviewing draft EU legislation; 3) providing Irish MEPs with a domestic forum to discuss EU issues; and 4) developing a medium term policy framework to address Ireland-EU relationship.

In July 2010, the Report of the Sub-Committee on Review of the Role of the Oireachtas in European Affairs recommended that the Standing Orders (of both Houses) be amended so that reports of the Joint Committee on European Affairs and the Joint Committee on European Scrutiny be taken for debate within a specified period of time. In addition, the sub-committee proposed that some sectoral committees report directly to the Seanad in respect of their EU-related work.

Scrutiny by the upper house has the potential to improve the output legitimacy of the EU.

The Working Group fully endorses the proposals of the 2004 and 2010 Reports and supports their implementation. The Working Group additionally recommends that the Seanad be responsible for the monitoring the transposition of EU directives into Irish law.”

GIVE CONSIDERATION TO NORTH-SOUTH MINISTERIAL COUNCIL PROPOSALS

In Northern Ireland, the Assembly receives regular Ministerial Statements on the business and progress of sectoral North South Ministerial Council meetings. During these plenary discussions, members are provided an opportunity to engage with the relevant Minister. No equivalent opportunities exist in the Irish Oireachtas.

The Working Group is of the view that such is the importance of North-South initiatives that the Seanad should be afforded a key role in contributing to and in overseeing the work being conducted within these cross-border forums. This would provide a means to highlight the work of the NSMC and to advance and further legitimise its potential as a novel space for public policy development.

GIVE CONSIDERATION TO SECONDARY LEGISLATION.

Over the course of the year there are hundreds of Statutory Instruments and Ministerial Orders published and laid before the Dáil and Seanad. These important documents which vary or modify the implementation of legislation often have significant bearing on sections of the community. They can be rejected or affirmed by either House but, in fact, rarely receive scrutiny. The Working Group is of the view that the Seanad could play an important role in this area.

CONSULT WITH RELEVANT BODIES PRIOR TO AND DURING SECOND STAGE DEBATES

The Working Group advocates the right to hold hearings with stakeholders during the course of Second Stage consideration and to use these contributions to feed into the legislative process. Inviting civil society (and the media) into the chamber opens up the institution and brings increased levels of transparency and openness.

INVESTIGATE AND REPORT ON MATTERS OF PUBLIC POLICY INTEREST

Second chambers elsewhere have been creative in terms of engaging with issues of public interest via investigations and inquiries. In Canada, Spain and the UK, the upper house has produced respected reports on a range of issues including: euthanasia; length of life imprisonment; and the legalisation of cannabis.

Hearings with stakeholders and other relevant bodies permits the production of extensive inquiry reports as a basis for evidence-based policy development. The Working Group is of the view that the Seanad could provide a deliberative and thoughtful arena wherein matters of public interest could be debated and addressed.

RIGHT OF AUDIENCE FOR MEPS

Despite the fact that they constantly deal with matters affecting the country our MEPs find themselves without a formal connection to our political structures. The Working Group recommends that there be a right of audience for MEPs in the Seanad so that they could outline to and debate with members of the Seanad significant European developments.

CONSIDER REPORTS FROM REGULATORS AND OTHER STATUTORY INSPECTORS AND REGULATORS

The Seanad constitutes a ready forum wherein the work of statutory bodies and regulators can be monitored and discussed. Currently, there are few opportunities for the work of these bodies to be publicly acknowledged and considered. Given the contributions they make in the service of the state and at a cost to taxpayers, there is considerable merit in providing an interface with the political system.

A ROLE IN APPOINTMENTS TO PUBLIC BODIES

There is a wide variance in the manner that legislation deals with appointments to Public Bodies. Some appointments are fully in the gift of Ministers, others require the Minister to consult with outside bodies, others still require the appointment process to be done by the Public Appointment Service and there are also some who are appointed through Oireachtas Joint Committees. Giving the Seanad a transparent role in the scrutiny or validation of such appointments would help to restore public confidence in the processes.

Whereas assigning some of these functions to the Seanad might require specific mention in relevant legislation all could be implemented within the current constitutional framework. Because of the constitutional requirement in Article 15(10) that each House shall make its own rules and standing orders the Working Group's recommendations in this area might generally require the assent of the House to amendments to Seanad Standing Orders. Many of the reports listed above are required by statute to be laid before the Dáil and Seanad and are listed each sitting day on the Order of Business for each House. They are however rarely discussed in either House and the Working Group sees a distinctive role for the Seanad in this area.

The Working Group is of the view that there is space for the Seanad to carve out a more meaningful and substantive role in the political system. Legislative change can facilitate a strengthened role for the Seanad, but the development by Senators of the issues referenced in this section would better exploit what powers are currently at their disposal. A changed mind-set (on the part of political parties and Seanad members themselves) has the potential to free the institution from some of the partisan, institutional and cultural binds within which it operates.



PART 5
COMPOSITION AND
ELECTORAL PROCESS

PART 5 COMPOSITION AND ELECTORAL PROCESS

From the outset of its deliberations the Working Group saw as its objectives:

- The creation of a Seanad which extended the principle of one person one vote to all citizens on the island of Ireland and overseas;
- The provision of the direct link to local and regional councils through the retention of an element of Indirect election;
- The enhancement and deepening of the Constitutional concept of vocational representative;
- The modernization of the entire electoral process in line with developments in technology

POPULAR ELECTION

The recent Seanad referendum confirmed a desire to retain the Seanad. But there was unanimity that it should be reformed. The national conversation during the referendum campaign also clarified a number of other viewpoints regarding the Upper House.

The most significant of these was that ordinary citizens felt excluded from what was seen as an undemocratic, unrepresentative and elitist electoral system and that there was a most compelling need to introduce a popular franchise in Seanad general elections.

The Working Group fully acknowledges the validity of the argument that extending Seanad voting rights to all citizens would give the House a new credibility and acceptability.

Such a new electoral process by ensuring that the citizens were stakeholders would give a new legitimacy and a greater level of political authority to Senators.

As the State's population has drifted eastwards and become more urbanized the number of rurally based Dáil Deputies continues to reduce because of the constitutional representative ratio. Seanad membership through the Vocational panels can counteract that in that for the expert seeking election there is little advantage in living in a densely populated area. The vocational nature of Seanad General elections facilitates the giving of a voice to those with common interests and concerns who happen to be thinly spread throughout the State. Gaeilgeoirí, Farmers, Disability are examples of interest groups, referenced in the Constitution and who have a unifying common bond but who are not gathered in any one geographic area. The proposed Seanad electoral process facilitates groups, such as these, ensuring that they have a voice in Parliament.

Following consideration of these matters the Working Group recommends that the right to vote in Seanad General elections be extended to all citizens.

ONE PERSON ONE VOTE

The current arrangements for Seanad elections allow certain voters to have up to six votes. There is a consensus among all commentators that this is unsustainable. One person one vote is a most basic principle in a modern democracy.

The Working Group recommends that each citizen have one vote and one vote only in Seanad General elections. This to be implemented by requiring them to register on the Panel of their choice and then casting their votes by STV for the candidate of choice from the list of those validly nominated to that panel.

RETAINING ELEMENT OF INDIRECT ELECTION

A consistent criticism of the current Seanad electoral system has been the fact that 43 of the 60 members are elected by local authority members and members of the Oireachtas. As a consequence a mere thousand citizens elect two thirds of the Seanad membership through this Indirect election process. This the Working Group strongly believes to be utterly disproportionate and to be no longer appropriate in modern Ireland. Nonetheless the Working Group believes that there is sound evidence supporting the retention of some element of Indirect Election.

All countries with a second chamber agree on the need to create a clear distinction as between the Lower and Upper Houses not just in the area of power and function but also in the method of election. Most countries attempt also to have a diverse mix of members. Not surprisingly then Second chambers around the world are formed through a variety of different processes combining direct election, indirect election and appointment.

In the Spanish Upper House one quarter are elected Indirectly by local politicians.

The German Upper House is formed indirectly of members appointed or elected by the Regional Lander Governments

All the members of the French Upper House are elected indirectly by the elected members of the 100 French Departments

The Australian Upper House is directly elected through a complex STV arrangement whereby the voter can choose to vote for either a named person or for a list.

Canadian Upper House is unelected. All members are appointed.

Heretofore the majority of the Seanad (43) was elected through indirect election.

The Working Group recognizes that an Electoral college of elected politicians whereby those elected by the people at local level elect a number of people to the Upper House of Parliament creates a special and important link between National and Local politics. It reflects a respect for local democracy and creates a chain of democracy between communities and parliament.

The Working Group, therefore, recommends the retention of Indirect Voting.

The Working Group further recommends, however, that the number to be elected by Indirect voting should be reduced from 43 to 10.

NORTHERN IRELAND

The Seanad was designed to ensure that all facets of our community be reflected in the House.

Deeply aware of the special relationship that has always existed between the Seanad and Northern Ireland the Working Group gave much consideration as to how this might be strengthened and deepened in a reformed Seanad.

The ties between the Seanad and Northern Ireland are very much cross community. Various Taoisigh have included among their nominees people from Northern Ireland. Arising from that the Seanad has been greatly enriched over the years by the contributions of extraordinary calibre of Senators from the North. The list including, among others, Sam Mc Aughtry, Brid Rodgers, Gordon Wilson, Maurice Hayes, John Robb, Seamus Mallon is long and impressive. The contributions of those from a Unionist background have helped broaden understanding in the Republic of their culture.

The special relationship between the Seanad and Northern Ireland is reflected in a number of developments over the years. The Working Group found it significant and informative that thousands of Trinity College and National University of Ireland graduates from Northern Ireland continue to vote in Seanad General elections for seventy plus years now. This is a politically unique cross community engagement. Indeed the very first Chair of Seanad Éireann was Lord Glenavy, a Trinity graduate whose family roots were in Glenavy Co Antrim.

It is often forgotten that a number of the Nominating Bodies are all Island institutions. Given the range of issues such as energy, environmental protection, animal health and emergency planning which have an all-island dimension, it would be open to nominating bodies to nominate suitable candidates from Northern Ireland.

Arising from that the Working Party recommends that Northern Ireland vocational bodies be encouraged to apply for registration as nominating bodies.

Encouraged also by the spirit of the Good Friday Agreement especially in the confirmation of the Principle of consent and the commitment “... to partnership, equality and mutual respect as the basis of relationships between North and South,..” the Working Group considered the extension of voting rights to those citizens of Northern Ireland who wished to engage and participate. The constitutional status of Northern Ireland having been confirmed, the Good Friday Agreement goes on to vindicate the right of residents there to identify themselves as Irish, British, or both, and to express freely their chosen identity.

Some years ago Mr Drew Nelson, Grand Secretary of the Orange Order surprised many by accepting an invitation to address Seanad Éireann it was a significant milestone in the relationship with the Unionist community. Even more significant was Mr Nelson’s statement that he saw his engagement with the Seanad as a “springboard for the future rather than as a shackle to the past”. Speaking to the media that day Mr Nelson, in words that resonate with the proposal in the Good Friday agreement to establish a Civic Forum, said “I am thankful .. that there is coming into play in mainstream civic society in the Republic a recognition of a value of the minority Protestant community..”

That statement, the historical experience, the special relationship, the positive outcome of NI graduate voting and the principle of consent articulated in the Good Friday Agreement greatly encouraged the Working Group to take an inclusive and generous approach in the matter of extending the voting franchise for Seanad elections to those normally resident in Northern Ireland who would wish to participate.

The fact that the Seanad does not have authority over taxation and finance matters ensures that this recommendation does not threaten or undermine our democracy but gives a freedom which could never be exercised or contemplated in a lower house. Allowing citizens of Northern Ireland to vote in Seanad General Elections provides for another clear distinct feature of the Seanad.

DIASPORA

The argument that there should be “No representation without taxation” is commonly postulated in opposition to extending the vote to emigrants. Because of the very extensive nature of the Irish diaspora and the number of citizens holding Irish passport worldwide there is a fear that the number of potential voters could overwhelm the national electorate. On the other hand there is a growing support for the view that Irish emigrants should be given the opportunity of participation in the electoral process. Emigrant groups have described the expectation and hope among the diaspora of returning and a belief that what they have learnt abroad could be important to share with those at home. Representatives of Irish emigrants in campaigning for a vote in Seanad General elections argue that their current experience and cultural exposure abroad could

contribute to the Ireland to which they hope to return. The Working Group considered these points among others and also noted that the extension of voting rights to emigrants is common practice in democracies worldwide. The Working Group sought to respond to these concerns and expectations and recommends:-

That Irish citizens with current passports living abroad be eligible to register and vote on the Panel of their choice.

UNIVERSITY PANELS

The implementation of 1979 Amendment to the Constitution will add significantly to the number of citizens eligible to vote on University panel.

The Working Group is aware of the recently published General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2014 which has been circulated by the Government.

As published it would appear complementary to the Working Group's recommendations to introduce a popular franchise for Seanad General Elections.

TAOISEACH'S NOMINATIONS

Under Article 18.3 of the Constitution An Taoiseach has full discretion in the selection of 11 Senators, subject only to their prior consent.

Many of the submissions made to the Working Group contained suggestions that An Taoiseach should be mindful of unrepresented minorities or persons of exceptional attainments or expertise in making his/her nominations.

The Working Group respects these views but is mindful of the reality pointed out in the O'Rourke report that the Seanad must "inevitably be a political body since it must discharge political functions". This is clearly the case as far as the presentation and management of the Government's legislative programme is concerned and which must also be a legitimate factor in the consideration of any Taoiseach in making these nominations.

Likewise the appointment of the Leader of the House by An Taoiseach is appropriate for the same reasons.

UNIVERSAL FRANCHISE

The Working Group recognises that its terms of reference allowed it to learn from the experience of Upper Houses worldwide. In that regard it has sought to democratise and modernise the Seanad in a manner consistent with the constitution and reflective of the national conversation during the Seanad referendum.

Taken as a whole the reformed Seanad as envisaged by the Working Group provides for the participation of all citizens on the island and eligible Irish emigrants with current Irish passports in Seanad General elections. The House will be clearly distinct in its electorate and formation and for the first time ordinary citizens will be stakeholders. It also respects and reinforces the will of local communities by giving added value to the local representatives they have chosen thereby ensuring that the indirect process will reflect regional perspectives. The University panels were outside the Working Group's remit and will continue but what was hitherto seen to be elitist and undemocratic are now, to all intents and purposes subsumed within the popular franchise in that graduates will have no more rights than other citizens.

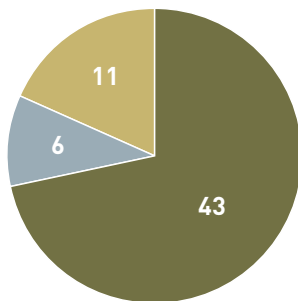
COMPOSITION OF SEANAD AS RECOMMENDED BY WORKING GROUP

The acceptance and implementation of the recommendations of the Working Group would result in a Senate of quite unique composition reflecting the best international practice.

The Sixty member Seanad would be composed of:-

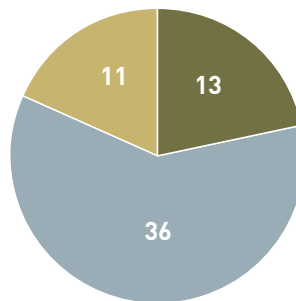
- (i) Thirty Six Senators would be elected by popular vote including the Six University Senators as per Constitution.
- (ii) Thirteen would be elected Indirectly by elected Public Representatives
- (iii) Eleven would be appointed by the Taoiseach as per Constitution

These charts graphically illustrate the changes from the current composition to that recommended by the Working Group. The most significant change is that for the first time the majority of Seanad members would be elected by Popular Vote.



- Indirectly elected
- Elected by University Graduates
- Appointed by Taoiseach

(i) Current arrangement



- Indirectly elected
- Elected by Popular Vote including Graduates
- Appointed by Taoiseach

(ii) Recommendation

VOCATIONAL PANEL ARRANGEMENTS

The Constitution requires that there be Five Vocational Panels:-

- 1 National Language and Culture, Literature, Art, Education and such professional interests as may be defined by law for the purposes of this panel
- 2 Agriculture and allied interests, and Fisheries
- 3 Labour whether organised or unorganised
- 4 Industry and Commerce, including banking, finance, accounting engineering and architecture;
- 5 Public Administration and social services including voluntary social activities

The Constitutional imperative is that forty three Senators in all be elected through the Vocational panels with not more than eleven and not less than five to be elected on each panel. The precise number to be elected on each panel and the manner of their election is a matter to be determined by legislation. The current requirements are detailed in the Seanad Electoral Acts of 1947 and 1954 relevant sections of which are included in Appendix 5.

In all there are more than a hundred registered bodies with authority to nominate candidates to stand for election on the Vocational panels. They are at the heart of the vocational nature of the Seanad. The Working Group believes that an increase in that number would greatly enhance the panel system and to that end strongly recommends that there be a national information campaign to encourage more eligible bodies to register.

Reflecting the recommendation that citizens would have a choice as to which panel they choose for registration the Working Group was of a mind to allocate equal numbers to each panel. In that regard, however, it was constrained by the Constitutional imperatives and also by the fact that the total was a prime number. Consequently there is a slight variation in the numbers to be elected on the different panels.

The Working Group Recommends

- that Eight members be elected on Culture & Education Panel ;
- that Nine members be elected on the Agriculture Panel;
- that Nine members be elected on the Labour Panel;
- that Nine members be elected on Industry on Commerce Panel;
- that Eight members be elected on the Administration Panel.

INDIRECT ELECTION:

Nomination and Seats

The Working Group recommends thirteen Seanad members will be elected by an electoral college comprising current Oireachtas members and current Local Authority members. This is referred to as the Indirect process.

Elected members of the Oireachtas and elected members of Local Authorities will register on the panel of their choice with the proviso that each panel have no less than 18% and no more than 22% of the eligible voters in a manner prescribed in the legislation

Each Vocational panel shall be divided into two Sub panels – a Nominating Bodies Sub Panel and an Oireachtas Sub-panel.

The number to be elected on each Panel and Sub-panel shall be as follows:

CULTURE AND EDUCATION-

Six members through popular election from the Nominating Bodies Sub-Panel
Two members through Indirect election from Oireachtas Sub-Panel

AGRICULTURE AND ALLIED INTERESTS-

Six members through popular election from the Nominating Bodies Sub-Panel
Three members through Indirect election from Oireachtas Sub-Panel

LABOUR-

Six members through popular election from the Nominating Bodies Sub-Panel
Three members through Indirect election from Oireachtas Sub-Panel

INDUSTRY AND COMMERCE-

Six members through popular election from the Nominating Bodies Sub-Panel
Three members through Indirect election from Oireachtas Sub-Panel

ADMINISTRATION-

Six members through popular election from the Nominating Bodies Sub-Panel
Two members through Indirect election from Oireachtas Sub-Panel

NOMINATION TO OIREACHTAS SUB PANELS-

Any Four current members of the Oireachtas may nominate a candidate to one or other of the Oireachtas sub-panels.

THE NOMINATION SEQUENCE

There are currently four stages to the Nomination sequence

1 RECOGNITION OF NOMINATING BODIES

Bodies with the right to nominate to each panel are updated and published annually. Any eligible body may receive recognition but those bodies seeking recognition are required to have strict rules governing articles of association, finance, audit, management, etc. Additionally, the body's objects must relate to or be connected with the interests and services listed in the Constitution. It is also a requirement that members of the body must be representative of persons who have knowledge and practical experience in the relevant interests. The detailed rules for recognition are clearly outlined in the legislation.

2 SELECTION OF CANDIDATES

Each nominating body is entitled to nominate a candidate or in some cases candidates to the relevant Vocational panel. Nominating bodies must have an approved method of selecting candidates and must select candidates with the appropriate level of knowledge and practical experience. Candidates be required to have both Knowledge and Practical Experience. The onus is on candidates to provide beyond doubt that they meet these requirements. The names of the nominated candidates are forwarded to the Implementation Body.

3 APPROVAL OF CANDIDATES

The Clerk of the Seanad must be satisfied that the candidates have been properly selected and fulfil the knowledge and practical experience requirement. In the event of the proposed candidate being deemed not to meet these requirements he or she may appeal.

4 APPEAL PROCESS

The legislation outlines the process of Appeal open to candidates who have been rejected by the Clerk of the Seanad.

While maintaining these stages the Working Group is of the view that they should be strengthened by the following amendments.

The Working Group recommends that the level of knowledge and practical experience required by the constitution be defined in legislation.

Such definition might take into consideration the Nominee's Certification, Qualification or Relevant documentation in the Interest area to be supplied by the Body.

It might also require that documentation confirming practical experience or service record in the discipline be presented.

The Working Group recommends that the functions currently discharged by the Clerk of the Seanad as Returning Officer be transferred to the Interim Implementation Body as described in Part 6 of this Report.

The Working Group recommends that the Clerk of Seanad Éireann be an ex officio member of the Implementation Body.

REGISTRATION

Indirect: The Elected members of Local Authorities, Dáil and Seanad may register on the sub panel of their choice with the proviso that no more than 22% and no less than 18% of the total electorate be registered on any one sub panel.

Diaspora: Irish passport holders living abroad may register on the Vocational panel of their choice or alternatively on the University panel if they are eligible.

University: Those currently registered on the university panels may chose to remain where they are or alternatively transfer to one of the vocational panels

Citizens of the Republic or Northern Ireland may register on the Vocational panel of their choice or alternatively on the University panel if they are so eligible.

The detailed registration arrangements for the different categories are matters to be decided by the Interim Implementation Body as referenced in Part 6 of this Report.

MODERNISING THE VOTING PROCESS

The Working Group was specifically requested in its terms of reference to give consideration to the method of election of members of a reformed Seanad. In addressing that the Working Group concluded that the introduction of new technology to some aspects of the voting process could make the Seanad General election more inclusive and would facilitate greater participation.

In developing a view on this issue the Working Group examined the Dáil registration process and the Seanad University panel process. The current registration process for the Dáil register of electors is not an attractive model a fact also noted by the Constitutional Convention which recommended that the accuracy be improved. The current register is regularly found to be both incomplete and inaccurate. As prime examples are the facts that it is quite common to discover voters being inadvertently registered at more than one address and that there is no accurate dependable method in place to ensure that deceased citizens are automatically removed from the register. The registration process for the current Seanad University panels is similar to that of the Dáil and replicates many of its problems. In the case of the University panels there is an additional difficulty in that Ballot papers are posted to the voters around the world by registered post. Consequently they must be either received at home or collected from the Post Office during normal business hours when most of the voters are at work. Unsurprisingly, a large proportion of ballot papers are returned undelivered. These and other difficulties and problems provided a practical reference framework for the Working Group in addressing a voting and registration process for a reformed Seanad. Though not entirely efficient or secure these traditional methods of registration and delivery of votes were the only ones available when the Seanad was established but with recent advances in technology new possibilities are now available for a modern electoral system.

During the course of its consideration it became increasingly clear to the Working Group that whereas no process, traditional or modern, is without flaws nonetheless the introduction of new technology to the process could eliminate many of the problems cited and could also increase participation at a cost much lower than the traditional method. In managing changes to the electoral system though, it must be borne in mind that fundamental to winning the trust and confidence of the electorate is the requirement that it have a structural integrity.

There are three stages to the voter's engagement with the Seanad General Election

- (i) Registration
- (ii) Receiving and Marking Ballot paper
- (iii) Returning completed Ballot paper.

Whereas Registration and receipt of ballot paper could be facilitated by new technology the return of ballot papers to the Returning Officer is required by the Constitution to be done by post and is therefore outside the remit of the Working Group.

The Working Group is of the view that the many advantages of introducing new technology and web based procedures make this a most attractive proposition.

Such a development would:-

- Result in a more accurate register of electors;
- Provide convenient accessibility out of hours for citizens wishing to register and vote;
- Project a modern progressive image of our country;
- Facilitate the participation of younger people;
- Result in an environmentally friendly election campaign;
- Generate significant Savings to Exchequer in comparison to traditional and current methods by eliminating costs such as Registered post and Printing.

The Working Group also recognized that whereas traditional methods might be improved and new efficiencies introduced there is also the constant threat that web based procedures need to be protected by the most up to date security protocols. With this in mind and recognizing that this is a matter for experts, the Group engaged with the State's National Cyber Security Centre (NCSC) to discuss and explore the potential of the internet and technology in facilitating participation in the registration process and in the delivery of ballot papers in the most secure manner.

The full report of the NCSC is attached in Appendix 3.

In order to get further opinions on this report the Working Group sought the views of Prof Joe Carthy, Professor of Cyber Security in UCD. His comments are attached in Appendix 4.

The report and its potential was also considered by an international group of Cyber Security Experts in IBM. That group concluded that with unique identifiers and with the most up to date systems that technology could secure any personal information in the registration database.

They were of the clear view that the issue of ballot papers could be done as safely as for instance Banking, Social Security or Passport Office services will be protected.

The conclusion of the Working Group is that an on-line Registration process would be more accurate than the current process as well as being both dependable and manageable.

The Working Group believes that such a system could be introduced without undue difficulty and so recommends.

Regarding the issue and receipt of ballot papers the closest existing parallel to a universal Seanad franchise is the University graduate vote which involves the posting out of approximately 150,000 ballot papers to addresses around the world. Unsurprisingly almost 50% of those ballot papers were either not used or simply undelivered to the addressee. Whether it be more or less risky than a controlled downloading of ballot papers by eligible registered citizens with unique identifiers is a matter for further assessment.

These challenges and opportunities should be considered and developed in consultation with leading Global authorities in UCD, the University of Michigan and the National Cyber Security Centre.

In this context the Working Group recommends that the delivery of Seanad Ballot Papers be facilitated by web based and similar technology.



PART 6 IMPLEMENTATION

PART 6 IMPLEMENTATION

A common feature of Seanad reform initiatives over the years is that they lost impetus following publication. This is understandable in that the long tortuous discussions, the achievement of acceptable compromises and the intense argumentation tends to soak the energy from the initiative and the relief of finalising and publishing a report becomes an end in itself. This is a lesson we have learned from previous Seanad Reform Reports. Whereas they have been established optimistically, delivered energetically and welcomed by the Government of the day they have never been implemented. As with many important proposals during the course of a Government term they were displaced by more urgent matters. Over the years any Government which took an interest in Seanad Reform tended to begin the process ab initio and had not progressed reforms before the end of their parliamentary term.

In order to halt that cycle and to ensure that these reforms be implemented our most crucial, and perhaps unique, recommendation deals with how the report be implemented.

The Working Group recommends that the Government immediately appoint an Implementation Body with responsibility for the development and implementation of this report.

In making this recommendation the Working Group was very much informed by the similar recommendation in the report of the Constitutional Convention and also recognises that it reflects a commitment in the current administration's Programme for Government.

The Interim Implementation Body would have a range of responsibilities:

1. to ensure the implementation of the recommendations in this Report;
2. to liaise, as an Interim Board, with draft-persons to ensure that the Seanad Amendment Bill reflect the spirit and text of the Report;
3. to oversee the process of Registration for Seanad election Panels following the enactment of the legislation;
4. to receive and adopt reports from the Clerk of the Seanad on the application of the rules for Nominating Bodies as required by Acts of 1947, 1954 and 2015;
5. to be responsible for the organisation of the University panel registration and election following the implementation of the 1979 Constitutional extension of the University franchise;
6. to oversee the delivery of ballot papers and the receipt and count of the votes;
7. to appoint returning officers to the various panels;
8. to ensure that there be an appropriate local supports to facilitate registration and receipt of ballot papers for people without internet access;
9. to develop and oversee a broad information campaign aimed at making people aware of their rights under the proposed reforms encouraging widespread registration increasing the number of nominating bodies;
10. to publish regular reports on implementation of the Working Group's recommendations.

The Working Group recommends that the membership of the Interim Implementation Body should be a tightly focused group including the Clerk of the Seanad as an ex officio member but that it should have access, as required, to support from relevant Government Departments, IT experts, Political Scientists and experts with knowledge and practical experience of national politics.

The Working Group recognises that the Electoral Commission, to be established by the Government, would have responsibility far beyond Seanad Elections and in that regard that the Interim body and its functions would be subsumed into the wider Electoral Commission.

The Working Group was established by the Taoiseach and is required to report back to him. Aware of the special constitutional relationship between the Seanad and the Taoiseach and recognizing that he is the lead Minister in the area of political reform, the Working Group recommends that a special unit be established in the Department of An Taoiseach with responsibility and adequate resources to advance the implementation of this report in a timely manner.

DRAFT OF BILL

Mindful again of the pressure on Government Departments in the matter of drawing up legislation the Working Group decided that it would be both expedient and helpful to include a draft Bill as part of its final report. Much work had already been done in this area by previous Seanad Committees. In recent years also a number of bills addressing Seanad reform have been published. Senators Feargal Quinn and Katherine Zappone have presented a bill to the House as also has Senator Professor John Crown.

The Working Group fully understands that the introduction of a Bill to implement its recommended reforms is purely a matter for Government. Nonetheless the production of a Bill provides a foundation on which to base the reforms and provides a framework to reflect both Government policy and the spirit of this report. It is after presentation to and acceptance by Government that previous reports have run into the sand.

As its final act the Working Group has set in train the drafting of a Bill to implement the relevant recommendations in this report. That Bill will be available within the next four weeks.

The Working Group recommends:

- (i) That the Bill be published and presented to the Oireachtas before the Houses rise for the Summer recess.
- (ii) That the Bill be signed into law before the end of this calendar year and
- (iii) That the commencement date for the new arrangements be immediately following the next Seanad General Election.



APPENDICES

APPENDIX 1

PRESS STATEMENT - 7 DECEMBER 2014

ESTABLISHMENT OF A WORKING GROUP ON SEANAD REFORM

Following the announcement in the Dáil on 11 November last, the Taoiseach has now established a Working Group on Seanad Reform.

The Group will be chaired by Dr. Maurice Manning (Chancellor of the National University of Ireland and former Senator) and the members will be Mary O'Rourke (former Minister and Senator), Pat Magner (former Senator), Dr. Maurice Hayes (former Senator, former Northern Ireland Ombudsman and former Chairman of the National Forum on Europe), Joe O'Toole (former Senator), Tom Arnold (former Chairman of the Constitutional Convention), Dr. Mary C Murphy (lecturer in politics in UCC) and Dr. Elaine Byrne (commentator and author on public policy).

The principal focus of the working group will be on possible reforms of the Seanad Electoral system within the existing constitutional parameters.

The Working Group will also explore ways of reforming Seanad Éireann generally and the manner in which it carries out its business.

The Group will examine these issues also within existing Constitutional parameters.

The Working Group will examine submissions and proposals for reform which have already been made and will also look at:

- the role of a reformed Seanad within the political process;
- the powers and functions of a reformed Seanad; and
- any such matter as the working party sees as relevant.

The working group will be entitled to receive new proposals or presentations on these matters at its discretion.

The Group has been asked to report back to Government not later than the end of March 2015.

The Taoiseach has thanked all those involved for their willingness to participate.

APPENDIX 2

SEANAD REFORM: LEGAL AND CONSTITUTIONAL ISSUES

CHARACTER AND STATUS OF THE SEANAD

As set out in Article 15 of the Constitution, Seanad Éireann is one of the three constituent elements of the Irish “National Parliament” called the “Oireachtas”; the other elements are the President and Dáil Éireann.

Dáil Éireann is described as a “House of Representatives” while Seanad Éireann is simply described as “a Senate”.

Each House of the Oireachtas shares equally and independently the separate rights, privileges and autonomies laid down for them in Article 15.

Dáil Éireann has, however, unique constitutional powers and functions which it alone exercises and in which Seanad Éireann has no part:

- Nomination of the Taoiseach
- Approval of the Taoiseach’s nominees for membership of the Government
- Power to oblige the Taoiseach and Government to resign by vote of no confidence
- Requiring the Government to be “responsible” to it by parliamentary scrutiny
- Consideration and approval of Financial Resolutions and Annual Estimates
- Power to initiate Money Bills (which can only be passed with the consent of the Taoiseach)
- Power to initiate Bills to amend the Constitution (which require popular approval by Referendum)
- Power to assent to the State’s participation in war.

By contrast, the following may be said of the Seanad:

- The Government is not responsible to Seanad Éireann.
- The Seanad has no role in the appointment or removal of the Taoiseach or Government or in relation to Annual Estimates or Financial Resolutions.
- The Seanad may not initiate Bills to amend the Constitution or Money Bills
- The Seanad has no role in assenting to the State’s participation in war.

The Seanad is, however, the only constitutional means for the inclusion of up to two non-TDs as members of the Government.

CHECKS AND BALANCES

Seanad Éireann possesses a significant set of constitutional powers and vetoes which it can exercise independently of the Dáil majority and which act as a system of constitutional checks and balances on the de facto power of the Government of the day. These include:

- the right of initiation and the right of veto in a Presidential impeachment
- the right of initiation and the right of veto on the impeachment of judges
- the right of initiation and the right of veto on the removal from office of the State’s financial watchdog, the Comptroller and Auditor General
- the right of veto over the declaration of a state of emergency
- the right of veto over the surrender of certain of the State’s sovereign rights under provisions of the EU treaties
- the right of veto over the exercise certain of the State’s important options and discretions under the EU treaties
- the right to petition the President to refer controversial Bills to the People

If the system of electing the Seanad always guarantees the Government of the day the permanent, unquestioning support of a majority in the Seanad, these constitutionally important safeguards would be significantly weakened.

THE LEGISLATIVE ROLE OF THE SEANAD

In all matters except Money Bills and Bills to amend the Constitution, the Seanad has full power to initiate, consider and pass Bills in the same manner as Dáil Éireann. Large numbers of Government Bills and some Private Members Bills are initiated in and passed by the Seanad.

Any Bill (other than a Money Bill) initiated in and passed by Dáil Éireann must be sent to Seanad Éireann with power to amend it and send it back amended to Dáil Éireann.

Dáil Éireann must consider any Seanad amendment to a Dáil Bill.

Bills initiated in and passed by Seanad Éireann must be introduced in Dáil Éireann. If such Bills are amended in Dáil Éireann, they are thereafter regarded as a Bill initiated in Dáil Éireann (and accordingly must be sent back to Seanad Éireann for consideration as amended).

Either House can opt to simply accept a Bill emanating in the other House in which case the Bill is deemed to be passed by both Houses.

Accordingly, the Seanad is intended to have a strong initiating, revising and scrutiny role in the State's legislative process.

MONEY BILLS

Money Bills (which are closely defined by Article 22 as purely budgetary or financial measures) when passed by the Dáil must be sent to Seanad Éireann for its recommendations but may not be amended in the Seanad.

The Seanad may return a Money Bill within 21 days to the Dáil which may accept or reject any Seanad recommendations. If a Money Bill is not returned within 21 days or is returned with recommendations which the Dáil rejects, it is deemed to have been passed by both Houses.

As a safeguard against the abuse of this summary procedure, any dispute as to whether a Bill is a Money Bill may be the subject of a Seanad resolution supported by at least half of its members requesting the President, having consulted the Council of State, to appoint a Committee of Privileges chaired by a judge of the Supreme Court to decide the matter.

OVER-RIDING THE SEANAD UNDER THE 90 DAY RULE (ARTICLE 23 AND ARTICLE 27).

Article 23 provides that any Bill, other than a Money Bill, initiated in the Dáil which is either rejected by the Seanad (or passed by the Seanad with amendments with which the Dáil on consideration does not agree), may, 90 days after its original passing by the Dáil, be deemed by resolution of the Dáil to have been passed by both Houses and may be signed into law by the President, subject only to the provisions of Article 27.

Article 27, however, allows a majority of the members of the Seanad supported by a third of the members of the Dáil to petition the President not to sign a Bill that has been "deemed to have been passed by both Houses" under Article 23, and empowers the President, having consulted the Council of State, where he/she considers the matter of such importance as to warrant a referendum, to refer the Bill to the People for decision by referendum before signing it into law.

Abridgment of the Time for the Seanad to Consider Legislation in an Emergency (Article 24),
In addition to the general capacity of the Dáil to over-ride the opposition of the Seanad after 90 days under Article 23, the Constitution also allows in Article 24 for a Taoiseach, armed with a resolution of the Dáil, to seek the President's agreement to shorten the period for the Seanad to consider a Dáil Bill, if but only if the Taoiseach certifies that the Bill is urgent or immediately necessary in two cases only:

- for the preservation of the public peace and security, or
- by reason of the existence of a public emergency, whether domestic or international.

The President, having consulted with the Council of State, has a discretion to grant or refuse any such request.

CONSTITUTIONAL RULES FOR THE COMPOSITION OF THE SEANAD

Unlike Dáil Éireann for which the composition, electorate and election is laid down in detail in the Constitution and which must be elected on the basis of PR in geographical constituencies strictly conforming with certain constitutional criteria, Seanad Éireann is composed of three different types of members:

- **43 members elected** from 5 panels of candidates "*formed in the manner provided by law*" from persons "*having knowledge and practical experience*" of the 5 areas of social and economic life of the state described in Article 18.7.
- **6 members elected** by the National University of Ireland and the University of Dublin or by them and other higher education institutions prescribed by law "*on a franchise and in a manner determined by law*".
- **11 un-elected members** to be nominated by the incoming Taoiseach.

There must be a general election of elected Seanad members not later than 90 days from a dissolution of the Dáil. This means that the Seanad general election could, in theory, take place before the newly elected Dáil is summoned to meet.

All 49 elected members (i.e. both the panel members **and** the University and Higher Education members) in a Seanad general election must be

- (i) elected **on the basis of PR**,
- (ii) elected **by secret postal ballot** and
- (iii) **be eligible to be elected to Dáil Éireann**, i.e. be at least 21 years of age, be an Irish citizen, and not be disqualified or ineligible under the Constitution or under law.

As regards the 43 members elected from panels, no fewer than 5 members nor more than 11 members may be elected from the same panel, as may be decided by law.

Article 18 leaves it entirely up to the Oireachtas to provide by law for the franchises for the elected members and for the manner of their election, subject only to its being done by PR and by secret postal ballot.

So, in the case of elected members, (i) the right of nomination, (ii) the right to vote, and (iii) the use of sub-panels (such as the present Oireachtas and Nominating Bodies sub-panels) are all matters lying within the legislative discretion and competence of the Oireachtas.

LEGAL ISSUES CONCERNING REFORM OF SEANAD FRANCHISE AND NOMINATIONS

FRANCHISE

As a matter of existing constitutional law, there is no obstacle to, or constraint on, legislation for the significant widening of the electorate(s) for the 43 panel members of the Seanad or in respect of legislation widening the system of nomination for election.

There is not any constitutional requirement that the general election of all the panel members of the Seanad be done by a single college of electors as at present.

The phrase “on a franchise”, when used in Article 18 in relation to university and higher education elections, clearly means “on a franchise or franchises”, as the provisions of that Article dealing with the University or higher education elected members makes clear.

Nor need the franchise include TDs, outgoing Senators, and County Councillors as is provided in current law enacted in 1947.

None of those categories has any constitutional status or right per se to be part of the franchise or franchises for the general election of the panel Senators.

Originally, under 1937 legislation, the electorate for the 43 panel members of Seanad Éireann was a single electoral college consisting of the current members of Dáil Éireann together with seven council members selected by each county council on a PR basis (i.e a minority of county councillors chosen by them).

That original college franchise, consisting of less than 400 members, did not include outgoing Senators. In addition, Taoisigh and former Taoisigh were originally given a right ex officio to make nominations for the Administrative panel election.

The 1947 legislation widened the electoral college to include all TDs, all outgoing Senators and all county councillors.

During the drafting of the 1937 Constitution, the draft at one time proposed that the electorate for the panels should include all persons who had secured 500 votes in the preceding Dáil general election.

NOMINATION

The present system of nominations by members of the Oireachtas or by outside nominating bodies is not required or mandated by the Constitution.

In particular, there is no constitutional requirement that the present system of Oireachtas and Nominating Body sub-panels be part of the system of election.

Popular nomination, for example, is constitutionally permissible.

This raises the question as to whether the Constitutional minimum requirement set out in Article 18.7.1 that a panel candidate must have “knowledge and practical experience” of the “interests and services” to which the panel relates is exhaustive of the eligibility criteria which can be required by law.

This issue is briefly discussed in Kelly's Irish Constitution.

It is constitutionally open to the Oireachtas to enact a law for the formation of panels under Article 18.7.1 for a process where, on objective criteria, the nomination of a candidate required that the candidate required significant degree of knowledge and a significant degree of practical experience of one, some or all of the "interests and services" to which the panel relates, rather than simply "some knowledge and some practical experience",

It is also open to the Oireachtas by law to:

- (a) establish objective minimum standards both of knowledge and of practical experience of the relevant "interests and services" to be eligible for nomination and
- (b) establish a body capable of deciding whether any particular nominee satisfies such standards.

As long as such an eligibility law was rational, non-discriminatory and proportionate and was clearly intended to ensure that the persons nominated could function as members of the Seanad to a standard appropriate to that office having regard both to knowledge and practical experience of the relevant "interests and services" in respect of each panel, such a law would be constitutional, even if it made eligibility a matter that had to be demonstrated to a reasonably high standard to a body constituted by law to examine such eligibility.

IMPLICATIONS AND POSSIBILITIES FOR REFORM

- Given that the Oireachtas is also expressly empowered under Article 19 to legislate for direct elections to the Seanad of members by functional or vocational groups, councils or associations, in substitution for general election of panel member Senators, which in principle would permit elections by quite substantial electorates, and given that the newly proposed Universities & Higher Education legislation could have a total franchise of at least 500,000 voters, it cannot be said that the letter or the spirit of the Constitution requires or suggests a small or very limited franchise for the general election of the 43 panel Senators, as at present.
- While the Constitution provides that each citizen shall have only one vote in a Dáil election, there is no such constitutional restriction in Seanad elections, and at present multiple voting is permitted for the panel electors and for some University electors.
- Equally, there is no constitutional bar to a one person, one vote rule in Seanad general elections
- In principle, the Oireachtas can enact a law making every citizen eligible to be a panel member elector for all, some or one of the panels.
- In principle, the Oireachtas could restrict each eligible voter to a vote on only one of the five panels to be chosen by the voter by voluntary registration for that panel.
- Likewise, "one person-one vote" could be achieved by providing that persons eligible to vote for the university and higher education members must opt as between voting in that election or voting on one of the five panels.
- In principle, the Oireachtas can by law establish a system of sub-panels as at present ensuring a minimum amount of seats on each panel for candidates coming from separate nomination streams or elected by different electorates.

- The Oireachtas can constitutionally confer the right to register to vote in Seanad general elections on Irish citizens living in Northern Ireland and on Irish passport holders living overseas for some or all of the panels or sub-panels, in the same way as non-resident graduates can register to vote in the university members elections at present. The existence of such rights for graduates or the extension of such rights to other citizens is not inconsistent with the letter or spirit of the Good Friday Agreement.
- By using a system of gender-based candidate sub-panels, the Oireachtas could also choose to ensure minimum gender balance among the elected members of the Seanad.
- There is no constitutional obstacle to methods of popular nomination of persons for election so long as they comply with constitutional and any statutory eligibility criteria.

A COMPOSITE SYSTEM OF ELECTION

A law could be enacted, if it were so decided, to have, say, a system of electing the 43 panel members of the Seanad on the basis of split franchise constituencies that would see the election of 13 members of the Seanad on the basis of sub-panel constituencies (“public representatives constituencies”) for which the current electorate (incoming TDs, outgoing Senators, and members of county councils) would form the franchise, and by which citizens would elect the remaining 30 members on the basis of sub-panel constituencies (the “citizens constituencies”) for which citizens could choose to be an elector by registering to become part of the electorate in respect of not more than one such constituency.

In such a model, the 13 public representative sub-panel constituencies to be elected could be carved out of the five Article 18 panel constituencies.

That would leave 30 seats to be filled by allocating seats as a sub-constituency for each of the five Article 18 panels to be elected on the basis of a citizens’ franchise as described above.

Other combinations could be devised. Any such model would ensure that a majority of the members elected for each of the five panel constituencies would be elected by the relevant citizens’ franchises.

METHOD OF VOTING

If citizens wishing to be eligible to vote for any panel candidates were obliged to register for that panel either on-line or by post, the electorate could consist of persons who were sufficiently motivated to participate in Seanad elections.

Their ballot must, however, be exercised by “secret postal ballot”. That excludes on-line voting even with pin numbers.

This means that all completed ballot papers must be sent by post in order to be counted as valid.

The ballot paper itself and a statement of identity could lawfully be down-loaded with or without a pin number system or sent out by post at the option of the voter. It must, however, be returned by post to the returning officer or to someone acting on his behalf.

For a system of effective scrutiny, each completed paper must be somehow capable of being verified as being cast by a registered voter before it is checked and counted.

Accordingly, the requirements of secrecy and effective scrutiny require that something like the two-envelope system used by the universities and in current panel member elections in which the voter places the ballot in a sealed envelope and then places that sealed envelope together with an appropriate witnessed statement of identity in the envelope to be posted to the returning officer, is unavoidable.

Although the voter might have to supply the two envelopes, there is no problem with having a down-loadable ballot paper and down-loadable statement of identity document. There is no legal need for registered post though it could be optional to ensure voters' confidence that their vote was received. A policy decision would be required to deal with free candidate postage or an on-line equivalent and on whether the posted ballot papers would be by pre-paid or free post.

Overseas voters could be given the option to post their votes to regional count centres for onward delivery or for preliminary checking and counting or perhaps for scanning and transmission by regional officers such as diplomatic or consular staff to a centralised count centre.

Michael McDowell
2nd February 2015

APPENDIX 3



National Cyber Security Centre

National Cyber Security Centre

Department of Communications, Energy & Natural Resources

TR-17022015-NCSC

The Internet and Irish Voters

A brief report exploring the potential of using the Internet to enhance the Irish electoral process in a safe and secure manner

DISCALIMER: This report is provided 'as is' without warranty of any kind, expressed or implied, including, but not limited to, the implied warranty of fitness for a particular purpose.

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Executive Summary

This report aims to explore the feasibility of using the Internet to enhance the voting experience for the Irish electorate. It identifies a number of procedures in the current electoral system that could benefit from being hosted on the Internet and is **not** a road map for the implementation of online or electronic voting. Within this report certain processes are identified in the current electoral system and the feasibility of migrating these processes to an online platform is explored. The report outlines some instances of how the Internet is currently used in other jurisdictions to good effect. It also references leading world experts in both E-voting and remote Internet voting and outlines their concerns with regard to some of the systems currently implemented around the world. The risks and threats associated with opening up certain process to the Internet are discussed and highlighted but also the opportunities associated with a such a project. The main body of the report identifies two specific processes that could be accessed over the Internet. These process are online registration and remote ballot paper downloads. The specific cyber-security concerns are addressed with both these processes as well as some best practices for implementation. A third scenario is outlined which address the issues surrounding a voting system that combines both online registration and downloaded ballots. Finally, a number of recommendations are made to assist any future committee established to investigate to such matters and should assist in the development of a road map for future projects in this area.

1 Introduction

In the modern era of conducting activities online a number of countries now leverage the power and convenience of the Internet to enhance their electoral systems without fully committing to electronic or Internet voting. This report aims to suggest some of the ways the Internet might be used to enable voters to avail of services that would otherwise have to be accessed via a regular postal service or in some cases not at all.

It is widely accepted that electronic voting in an uncontrolled environment (remote Internet voting) still poses major cyber-security concerns associated with its implementation and operation. Although countries such as Estonia and the United States have enabled a percentage of voters to complete the entire electoral process via electronic means there were many concerns raised by leading experts in the field of E-Voting ^[4]. However although a full end-to-end, remote Internet voting system implementation is problematic, the capabilities of the Internet to assist and enhance certain elements of the electoral process should not be overlooked or dismissed and have been considered by experts since the early 2000's ^[8].

Voter registration is probably the most obvious electoral process to investigate the feasibility of migrating to an online platform. Online registration is now used in a number of countries to great effect yet the implementations vary greatly in terms of scale, security and ease of use. The UK, USA, Estonian ^{[3][2]} and many other countries now use online registration to maintain their respective electoral register. There are a number of pros and cons associated with online registration with one of the main advantages being increased accuracy of submitted voter registration forms leading to greater accuracy of the electoral register. In particular it would be an effective measure to address the current problem of inadvertent dual registration at differing addresses. The main disadvantage of online registration being the increased cyber security risks associated with any service provided over the Internet.

This report aims to explore the possibility of developing an online electoral registration system to facilitate Irish citizens to register remotely over the Internet and subsequently take part in certain elections via the postal ballot system. Although not as complex as developing a full remote Internet voting system it nonetheless presents a number of significant challenges from a cyber-security perspective. Though an Internet-based registration system may lead to greater accuracy and usability than traditional methods nonetheless as with all activities conducted over the Internet there is no guarantee of a totally secure system. However with proper planning at the design and implementation stages and rigorous testing, these security risks can be reduced greatly.

[4] J Alex Halderman, Harri Hursti, Jason Kitcat, Margaret Macalpine, Travis Finkenauer, Drew Springall, and Rights Group. Security Analysis of the Estonian Internet Voting System. (May), 2014.

2 Background

2.1 Opportunities and National Interests

Although there are many threats associated with this area there are also a number of opportunities and advantages to be gained from implementing online systems to enhance the electoral process. The migration of the registration process away from a totally postal-based system to a hybrid system of online and postal submissions can have a number of benefits:

- Greater accuracy in voter registration information - Data submitted via web-based forms will remove the ambiguity and errors arising from hand written submissions as well as ensuring all mandatory fields have been filled with valid information before allowing the user to proceed.
- Higher numbers of registered voters - The ease and simplicity of online systems encourages people to register and can see increased participation in elections.
- More efficient processing of registration applications - This is an obvious benefit of any online registration system. Humans do not have to spend endless hours trying to decipher hand writing as the online system will register the user and enter the details into a database immediately.

Realising the potential of the Internet to make citizen participation in national elections more prolific has long since been recognised ^[7]. Any committee established to consider electoral reform should seek to determine the potential of using the Internet from the perspective of Ireland's unique position globally i.e. a large diaspora who currently hold Irish passports.

2.2 Risks and Threats





As is the case with online activity in modern society there are numerous security concerns that accompany any potential project. Government services are of particular interest to malicious users due to the high profile, high value nature of the target systems. E-voting systems draw a lot of unwanted attention and although recorded incidents of actual attacks are not widespread there have been a number of high-profile examples of security breaches over the years^[1]. In addition to the breaching of actual online and E-voting systems there have also been cases where cyber-security experts have exposed security flaws in online electoral systems in a controlled environment ^[4] ^[10]. If any individual part of the entire electoral process were to be operated over the Internet all possible threats to the system would need to be considered. Although numerous and varied these threats can be classified into four loosely defined categories:

[7] Theresa a Pardo. Realizing the Promise of Digital Government : It's More than Building a Web Site. *Information Impacts*, (October):1–12, 2000.

[1] E-Voting Fails. <http://www.countingthevote.ca/e-voting-fails> Date Accessed: 14-02-2015.

[4] J Alex Halderman, Harri Hursti, Jason Kitcat, Margaret Macalpine, Travis Finkenauer, Drew Springall, and Rights Group. Security Analysis of the Estonian Internet Voting System. (May), 2014.

[10] Scott Wolchok, Eric Wustrow, Dawn Isabel, and J Alex Halderman. Attacking the Washington , D . C . Internet Voting System. pages 1–18, 2012.

1. Hacking: ego motivated attacks 
2. Cyber-crime: financially motivated attacks 
3. Hacktivism: Ideologically or politically motivated attacks 
4. Cyber espionage and warfare: state-sponsored attacks 

Addressing cyber threats requires an understanding of the motives, methods employed, and the extent of the possible damage inflicted by cyber incidents. Ostensibly, should any part of the electoral process be compromised then the validity of that particular election could be brought into question. Cyber attacks could be motivated by a wish to change the outcome of a particular election for no other reason than to prove this could be achieved. Cyber criminals could wish to steal data associated with user profiles due to the large amount of personal data required to register a voter. Vote buying and vote selling are also known practices associated with compromised voting systems. Cyber vandals could wish to disrupt or void an election by defacing web pages or simply preventing people from using the system. These attacks are known as Denial of Service attacks and extremely common in relation to government service provided over the Internet. State-sponsored attacks are also potentially an issue with using the Internet in the electoral process.

3 Implementation and Operational Considerations

3.1 Online Voter Registration System - Design and Implementation Issues

The issues with online voter registration are significant but pose fewer security problems than fully remote Internet voting. The main challenge for this project will be to ensure that all those registering are who they say they are for the purpose of registration. According to cyber security experts that specialise in the field of electronic voting there should be no significant impediment to implementing a secure online electoral registration system provided the correct protocols and practices are employed in implementation. J. Alex Halderman, a leading academic from the University of Michigan in the area of E-voting and voting over the Internet stated in an interview with the National Conference of State Legislatures that “It’s possible to do online voter registration securely. We just need to take the necessary precautions.”^[6]. The following are examples of ‘Best Practice’ in the area of online registration. A combination of a number of these will be necessary to ensure a secure system.

- **Use a unique identifier to ensure that each person can only register once** - For the use case outlined in this report passport or PPS number would be the most convenient. A real-time link to the database containing user details would additionally be required. Whereas the passport number is ideal for the overseas voter, it would be a problem for those resident in Ireland not in possession of a valid passport. In such cases social security numbers are a possible alternative.
- **User Profile Creation** - To ensure that voters are who they say they are the the unique identifier discussed previously, along with some other form of identification should be used to create a user profile. If, for example, a passport was used for user identification, the users would enter their names and details as per their passport and this number would be used to run a query against the passport database to determine if an appropriate match has been found. Users would then have to be associated with an appropriate constituency. As the exact detail of how wide ranging the electoral reform will be is not known, the implementation of this would have to be discussed at a later stage.
- **Real-time monitoring of online registration activity** - Next generation firewalls, Intrusion Detection/Protection systems would need to be installed and configured on the the host network to ensure that any suspicious activity could be identified and reacted to appropriately. Incidents where malicious users attempt to create multiple profiles or registrations either manually or through some distributed, automated system, could be mitigated against if such real-time monitoring systems were deployed.
- **Consult the appropriate security expertise during the initial system design phase** - The initial design of online voter registration application would have to address a number of security concerns from the outset. The website, access to the database, access to external databases, hosting of website to name just some of the issues of concern would all have to be addressed during the design phase of any application.

[6] National Conference of State Legislatures. Available at: <http://www.ncsl.org/research/elections-and-campaigns/interview-j-alex-halderman-online-registration.aspx> Date Accessed: 12-02-2015.

- **Robust Interface design** - As the application would most likely be using an external database for user verification the interface design would most likely incorporate the use of some form of scripting language to enable the application query the database. This database-application communication process is often exploited by hackers to gain unauthorised access to a database and is generally as a result of poor security design features. Using techniques such as a requirement for a user to solve a CAPTCHA (Completely Automated Public Turing test to tell Computers and Humans Apart) prior to submission would also enhance the security features of the application
- **Implement Multi-factor authentication for future login purpose** - Two-factor authentication significantly reduces the probability of user accounts being compromised as it requires the user to authenticate via user name and password and in addition a Pin is then sent to a registered mobile phone via text at the time of login request. This added security feature makes it difficult for an attacker to attempt a bogus login as the potential attacker would need access to a valid registered users mobile phone. Although it would not eliminate the potential for impersonation during the registration process, the added requirement for a valid mobile phone number would serve as a deterrent.
- **Secure registration with Credit Card** - Require those wishing to register to provide some form of credit card details. This would work similar to hotel booking site where payment is not withdrawn from the account. The credit card details are used to merely secure the booking.
- **Appropriately Resourced Project team** - Like many IT projects the need for proper staffing and funding is vital. One key challenge associated with this particular project will be ensuring that those entrusted with system implementation have the relevant experience not only in the similar application development but also in the area of cyber security.
- **Postal Address verification** - Whatever the form of identification used by the system there will have an associated postal address with a particular profile. The application will need to provide some means for updating this address should a registered voter change address between registration and polling day. Any change of address made by a user should result in a confirmation via post to both the old and new addresses. Valid addresses in Ireland could be then verified using the new Eircode postcode database.
- **Online Photo ID** - Requirement for users of the system to take a photo online at time of registration. This would enable a human to compare the photo associated with the form of identification used with that submitted on line.

3.2 Providing Ballot Papers via the Internet - Risks and Mitigation

Unlike the challenges associated with voter registration, the ability to provide Ballot papers via the Internet is not so widespread. The Indian government were considering such a move for military personnel in 2013 ^[9] but this has yet to be implemented. Most countries have either fully implemented remote Internet voting or have simply just implemented online registration. The fact that there is no widespread instances of ballot downloading should serve as a cautionary note that this particular issue may need detailed research before implementation is decided upon.

[9] The Economic Times. Election commission plans introducing downloadable ballot papers for forces, Dec 2013. http://articles.economictimes.indiatimes.com/2013-12-17/news/45296177_1_internet-voting-sampath-paramilitary-forces - Date Accessed: 11-02-2015.

Most implementations of online voter registration ultimately require the registered user to present themselves in person at a polling station on the day of the election. This particular use case however will see most of the electorate vote via a postal ballot which will mean that potential users of the system will never have to physically interface with election officials throughout the entire process. This in itself presents a number of security risks that will have to be addressed, the possibility of identity theft being the most obvious. There are numerous possible solutions to this particular problem and all vary in terms of ease of implementation and security of system. With all those caveats outlined this report will still attempt to explore some of the technical and cyber-security issues to the implementation of such a system. By far the simplest solution is to allow registered users to download their ballot papers as a PDF, print off this PDF and fill out as required. Then along with a declaration form that requires the registered user's written signature this can be enclosed within a second envelope and sent to the relevant returning officer.

The main potential security issues with this system are outlined as follows:

- Potential malicious users can print multiple ballot papers and submit from fake or impersonated voters.
- Official ballot papers in electronic form would have to be downloaded to private or public devices - that electronic copy could fall into the hands of malicious actors to manipulate and tamper with for future nefarious activities.
- There is no way of determining the device used to access the site to download the ballot paper did not have malicious software running on its operating system. This malicious software could potentially be designed to disrupt or interfere with the downloaded ballot paper.
- Malicious actors could replace the electronic form of the ballot paper that resides on the government owned server with a fake or tampered ballot paper. This could see bona fide users downloading the malicious actors' version of the ballot paper and unwittingly casting ballots on fake or tampered ballot papers.
- Distributed Denial of Service Attack or DDoS is always a potential threat to any on line service. This is where malicious actors bombard the server running the service with unwanted traffic so as either slow or make the server completely unusable to the average user.

There are a number of measures that can be used to mitigate but not eliminate the potential for fraud in an electoral process if downloaded ballots were used. These are as follows:

- **Digital Signatures** - The use of the Public Key Infrastructure (PKI) and Certificate Authorities (CA) to digitally sign the ballot paper would be one obvious feature to implement. Those users registered to vote would be given a time period over which they could login to the system to download their ballot. The downloaded ballot paper would be digitally signed using the appropriate department's private key and would appear to the user as a valid ballot paper with a green tick mark as seen in the Figure 3.1. Users of the system would be asked to make sure that this green tick mark was present prior to voting.
- **Uniquely Identify Each Ballot Paper** - Some form of unique identifier that linked the ballot paper to the user's account. This could be a one-way cryptographic hash function that takes user login details, session information and perhaps a cryptographic salt (a pseudo-random number used to increase the entropy of user data) as inputs and provides a seemingly random 256 bit number as an output. This output is printed at the top of each ballot paper and declaration sheet in the form of a Quick Response or QR code. The individual's identity and the hashed output are stored on a secure

database and only authorised administrators of the database may determine user identity via the QR code. The need to perform such a task would only be required if multiple ballot papers with that same QR code were sent to the returning officer. The user would be told of this capability and asked to ensure that the downloading and printing of the ballot paper be done in a secure location. This may impact on voter anonymity but as long as those overseeing the access to the stored hashes and user profiles were entirely separate from the process of vote counting then voters' identities would not be revealed.

- **Login Constraints** - Temporal constraints on logins for downloading ballots that provide only a limited window for a registered voter to login and print ballot papers prior to an election. Although this might increase the risk of a DDoS it would reduce the chances of an electronic copy of the ballot paper being in circulation weeks prior to an election.

These measures are just some of security features that would need to be considered should such a system be implemented. However even with these security features there is no guarantee that a system will not become compromised. Even Certificate Authorities are not immune to attack and are themselves considered a security risk [5].

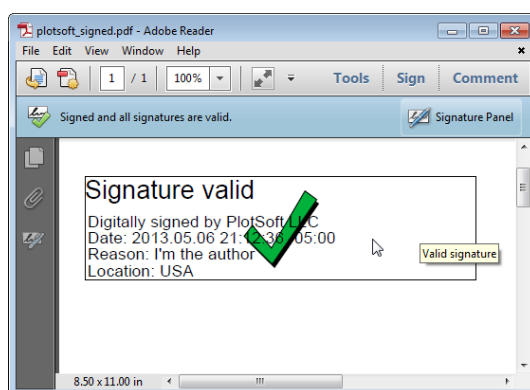


Figure 3.1: Digitally signed PDF with valid Certificate

[5] N. Leavitt. Internet security under attack: The undermining of digital certificates. *Computer*, 44(December):17–20, 2011.

3.3 Combining Online Registration and Downloading of Ballot papers

In the previous sections of this chapter two separate areas have been outlined in the use of the Internet to assist the electoral process. What will require the greatest amount of research will be the implications of combining both of these processes into the same overall electoral process.

The issue of online registration in isolation, from initial investigation, seems to be widely implemented and as long as the best-practice guidelines for design, implementation and maintenance (summarised above) are adhered to then there should be no major technical impediment a successful implementation. However it should be noted that many of these similar implementations world wide operate on the premise that the individual registering will ultimately present themselves in person at a polling booth at the end of the process. Whereby there is a visual confirmation of the individual's identification using the picture identification card used in initial online registration. In the case of many US states this is a driver's licence. What is being proposed in this case could see an individual never having to be physically present from the registration to completion of ballot.

Although this scenario is not unique the potential ratio of absentee voters who are non-resident in Ireland could be significant. This could potentially expose the process to identity fraud as the malicious user could register and vote in an election without the real user being aware. It must be noted that passport numbers although private are not secret and therefore can be more easily obtained than Pins for credit cards etc.

4 Conclusion and Recommendations

There is no doubt that the ubiquity and convenience of the Internet can be availed of to enhance and expand the electoral process for the Irish people. The challenge lies in using technology in a safe and secure manner so as not to undermine the entire electoral process. The extent to which the Internet is availed of depends on a number of factors outside the scope of this report and will be subject to further clarification. Online registration for Seanad elections is a very real possibility from a technical perspective. However with regard to the combination of this system with some form of online ballot paper download gives rise to a number of security concerns that would have to be addressed prior to any suggested implementation. Should further investigation into the feasibility of using the Internet as outlined above be deemed of merit then the following should be considered:

- Consult the necessary subject matter experts in the area electoral activities online, both at a national and international level.
- Accurately scope and cost the project - Determine the potential number of voters that would need to avail of any new system and cost system implementation accordingly
- Establish a solid and sustainable funding model for any potential both implementation and ongoing system maintenance
- Investigate the current status of the passport database and determine the feasibility of securely querying this database to enable online registration
- Investigate the current online database used for checking the electoral register to determine if this platform could be expanded further to incorporate new features
- Consider a fact-finding visit to an electoral jurisdiction of similar size and scale that have implemented similar processes online

These recommendations are by no means an exhaustive list but should all be considered if further work in this area is to be attempted. As with all large-scale IT projects, identification of the major issues and concerns at the planning stage will assist in preventing a project from failing prior to implementation or, alternately, determine a lack of feasibility of all or aspects of the project prior to the commitment of any personnel or finance. However, with all these reservations outlined there should be a positive approach to modernising the electoral process and the use of the Internet to achieve this goal. Many other countries have done so with varying degrees of success and scale and Ireland could do likewise.

APPENDIX 4

COMMENT ON USE OF THE INTERNET TO FACILITATE POSTAL VOTING FOR SEANAD ELECTIONS

Having reviewed the proposal to introduce new technology to facilitate postal voting for Seanad Eireann elections and looked at the situation in other jurisdictions, I am happy to endorse the proposal as a feasible and positive one.

Any use of computing technology carries with it various security implications. It is impossible to completely guarantee the security of any system be it manual or technology-based. However, it is possible to put reasonable security steps in place so that security risks are mitigated to an acceptable level.

I am firmly of the view that sufficient cybersecurity mechanisms can be put in place to allow voters register online and print their ballot papers with a similar level of confidence that exists concerning the security of the current postal voting process.

Some potential security mechanisms are outlined in the NCSC submission and as the report notes, further consultation in this area is required.

I believe that it may be more useful to agree the security principles that underlie the development of any voting system, initially, rather than focus on the security implementation possibilities. Such principles include: accessibility to voters, integrity of the system so that each vote is transmitted and correctly counted, confidentiality of voting so that identity of voter is kept secret. These principles will guide the implementation of the system and in particular the security safeguards to be employed at all stages.

It is difficult to estimate the cost of such a system. I note an estimated cost of approximately €7 million for the development of an online voting system for local elections in New Zealand. There would also be ongoing savings in that it would no longer be necessary to post ballot papers to the Seanad Eireann electorate.

My recommendation would be to establish a task force charged with the development and implementation of the proposed initiative.

Prof. Joe Carthy

Director of UCD Centre for Cybersecurity and Cybercrime Investigation

APPENDIX 5

THE FOLLOWING TEXT ILLUSTRATES THE AMENDMENTS MADE TO THE RELEVANT PARTS OF THE 1947 ACT BY THE 1954 AMENDMENT ACT.

CONSOLIDATION OF TEXT FROM SEANAD ELECTORAL (PANEL MEMBERS) ACT, 1947 AND 1954 RE NOMINATING BODIES

| | PART II. <i>The Register of Nominating Bodies.</i> |
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| Establishment and maintenance of register of nominating bodies. | 8. —(1) A register (in this Act referred to as the register of nominating bodies) of bodies (in this Act referred to as nominating bodies) entitled to nominate persons to the panels of candidates for the purpose of every Seanad general election shall be established and maintained in accordance with this Act. |
| | (2) The following provisions shall have effect in relation to the register of nominating bodies: |
| | (a) the register shall be in such form as the Seanad returning officer thinks proper; |
| | (b) a body shall not be eligible to be registered in the register in respect of any particular panel unless either— |
| | (i) its objects primarily relate to or are connected with the interests and services mentioned in subsection 1° of section 7 of Article 18 of the Constitution in respect of that particular panel, and |
| | (ii) its activities are concerned mainly with such interests and services, or |
| | (ii) its members are representative of persons who have knowledge and practical experience of such interests and services; |
| | (c) a body which is formed or carried on wholly or substantially for profit or which carries on, as its sole or principal function, any trade or business for profit shall not be eligible for registration in the register; |
| | (d) the Seanad returning officer may refuse to register any body (not being an excepted body) in the register unless— |
| | (i) its organisation and direction are governed by articles of association, rules or other regulations which— |
| | (i) provide for an annual general meeting to which all members are invited by a notice forwarding an agenda including the following items, that is to say, minutes of preceding meeting, presentation of annual report, consideration of statement of accounts as certified by the auditor, election of executive committee, election of auditors, |
| | (ii) make adequate provision for the carrying on of the business of the body by an executive committee, and |
| | (iii) provide for the audit and certification of accounts by a public auditor or other qualified person, and |
| | (ii) its average annual revenue from subscriptions during the five years immediately preceding the application for registration has been, in the case of a charitable body, not less than one thousand pounds or, in any other case, not less than two hundred and fifty pounds, |
| | but subject to the proviso that the requirements set out in this paragraph as to election of auditors, provision for audit and annual revenue shall not apply in the case of such bodies engaged in the promotion of scientific or general knowledge as in the opinion of the Seanad returning officer are of national importance; |

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| | (e) a body which is composed wholly or mainly of persons who are in the employment of the State or of persons who are in the employment of local authorities and the objects of which include the advancement or protection of the interests of such persons in relation to their said employment shall not be eligible for registration in the register; |
| | (f) every body which is registered in the register shall be so registered in respect of one, and only one, panel; |
| | (g) except as otherwise provided by this subsection, a body shall not be registered in the register save in pursuance of an application in that behalf made by such body in accordance with this Act; |
| | (h) the Irish County Councils General Council and the Association of Municipal Authorities of Ireland shall be registered in the register in respect of the administrative panel without application, and no other body shall be registered in the register in respect of that panel unless its objects and activities consist, wholly or substantially, of voluntary social services of a charitable or eleemosynary character. |
| | (3) In paragraph (d) of subsection (2) of this section the expression "excepted body" means a body which is— |
| | (a) a body established under an Act of the Oireachtas for any of the following purposes: |
| | (i) the regulation or control of professional qualifications or conduct. |
| | (ii) the provision or improvement of cultural or educational facilities; or |
| | (b) a cultural, educational or professional organisation in receipt of a grant voted specifically for it by the Oireachtas. |
| | (4) Each of the following bodies, and no other body, shall be a local authority for the purposes of this section: |
| | (a) the council of a county, the corporation of a county or other borough, the council of an urban district, the commissioners of a town or a public assistance authority, |
| | (b) a committee or joint committee of or appointed by any one or more of the bodies mentioned in paragraph (a) of this subsection. |
| Applications for registration in register of nominating bodies. | 9. —(1) Any body which desires to be registered in the register of nominating bodies in respect of any particular panel and claims to be eligible for registration in that register in respect of that panel may apply for that purpose to the Seanad returning officer in accordance with this section. |
| | (2) The following provisions shall have effect in relation to applications for registration in the register of nominating bodies at the preparation of that register: |
| | (a) an application shall be made in writing on an application paper in the prescribed form provided by the Seanad returning officer; |
| | (b) the Seanad returning officer shall furnish free of charge on request to any body which proposes to apply for registration an application paper for that purpose; |
| | (c) an application shall be delivered or sent by post to the Seanad returning officer at his office on or before the date specified in that behalf in the notice published under section 10 of this Act and any application which is received at that office after that date shall not be entertained or considered by the Seanad returning officer; |
| | (d) an application shall state the panel in respect of which the applicant desires to be registered and the grounds on which the applicant claims to be eligible to be registered; |
| | (e) an application shall also state all such things in relation to the applicant as are indicated in that behalf in the prescribed form of application paper. |

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| Publication of notice of the preparation of register of nominating bodies. | 10. —As soon as practicable after the passing of this Act, the Seanad returning officer shall publish, in every morning daily newspaper published in the State and in such other (if any) daily newspapers as, with the sanction of the Minister, he thinks proper, a notice in the prescribed form giving public notice that the register of nominating bodies is being prepared, and giving such information (including the latest date for receipt of applications for registration) and instructions in relation to applications for registration as the Minister thinks proper. |
| Preparation of register of nominating bodies. | 11. —(1) As soon as practicable after the day prescribed for this section, and in any event not later than fourteen days thereafter, the Seanad returning officer shall prepare the register of nominating bodies and for that purpose— |
| | (a) shall examine all applications for registration duly received by him, |
| | (b) shall disallow every application which appears to him to be irregular in form and every application as respects which the applicant fails to satisfy him that the applicant is eligible for registration in respect of the panel to which the application relates, |
| | (c) may disallow any applications which he is authorised by the subsequent provisions of this section to disallow, and |
| | (d) shall allow all such applications as he does not disallow in pursuance of the foregoing provisions of this subsection. |
| | (2) The Seanad returning officer may require from any applicant for registration in the register of nominating bodies all such information relevant to the registration of the applicant as he reasonably requires for the determination by him of the allowance or disallowance of the application, and the Seanad returning officer may disallow the application of any applicant which fails or refuses to give any information required of it under this section. |
| | (3) It shall be lawful for the Seanad returning officer to disallow an application for registration in the register of nominating bodies made by any body which is a branch of or affiliated or subsidiary to a body which is already registered in the register or whose application for such registration he has allowed. |
| | (4) Subsections (2) and (3) of this section shall have effect in relation to every annual revision of the register of nominating bodies as well as in relation to the first preparation of that register. |
| | (5) Not later than fourteen days after the day prescribed for this section, the Seanad returning officer shall send by post to every body which applied for registration in the register of nominating bodies (whether its application has been allowed or disallowed) a copy of the register as prepared by the Seanad returning officer under this section. |
| | (6) Where the Seanad returning officer has disallowed an application for registration in the register of nominating bodies, he shall, on the request of the body which made the application, furnish to the body a statement of his reasons for the disallowance. |
| | (7) Where the Seanad returning officer has disallowed under this section an application for registration in the register of nominating bodies because the applicant has failed to satisfy him that the applicant is eligible for registration in respect of the panel to which the application relates, a statement to that effect by the Seanad returning officer shall, for the purposes of subsection (6) of this section, be a sufficient statement of the reasons for the disallowance. |
| | (8) The allowance or disallowance by the Seanad returning officer of any application for registration in the register of nominating bodies shall be final and conclusive, subject only to such appeal as is provided for by this Act. |
| Appeal Board. | 12. —(1) There shall be a board [in this Act referred to as the appeal board] to hear appeals from decisions of the Seanad returning officer under this Part of this Act. |
| | (2) The appeal board shall consist of five members, namely:— |
| | (a) a chairman, who shall be a judge of the Supreme Court or the High Court nominated by the Chief Justice, |
| | (b) the Chairman of Dáil Eireann, |
| | (c) the Deputy-Chairman of Dáil Eireann, |
| | (d) the Chairman of Seanad Eireann, |
| | (e) the Deputy-Chairman of Seanad Eireann. |

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| | (3) The quorum for a meeting of the appeal board shall be three. |
| | (4) The appeal board may act notwithstanding any vacancy thereon. |
| | (5) Subject to the express provisions of this Act, the appeal board shall regulate its own procedure. |
| Appeals to the appeal board in connection with preparation of register of nominating bodies. | 13. —(1) Any applicant for registration in the register of nominating bodies whose application for registration has been disallowed by the Seanad returning officer on the preparation of the register may appeal in accordance with this section to the appeal board against the disallowance. |
| | (2) Any applicant for registration in the register of nominating bodies on the preparation thereof in respect of any particular panel (whether its application for registration has been allowed or has been disallowed by the Seanad returning officer) may appeal in accordance with this section to the appeal board against the allowance by the Seanad returning officer of the application of any other applicant for such registration in respect of the same panel. |
| | (3) An appeal under this section to the appeal board shall be made in writing and shall state the grounds on which the appeal is made and shall be delivered or sent by post to the Clerk of Dáil Eireann on or before the day prescribed for this section, and any such appeal which is received by the Clerk of Dáil Eireann after that day shall not be entertained or considered by the appeal board. |
| | (4) An appeal under this section shall be open to inspection at all convenient times by the Seanad returning officer. |
| Decision of appeals in connection with preparation of register of nominating bodies. | 14. —(1) The appeal board shall consider every appeal duly made under section 13 of this Act and shall, in respect of each such appeal, either reverse the decision of the Seanad returning officer which is the subject of the appeal or disallow the appeal. |
| | (2) The appeal board shall, when considering an appeal made under section 13 of this Act, consider— |
| | (a) the grounds for the appeal stated pursuant to subsection (3) of that section, and no other grounds, and |
| | (b) such information (if any) as was made available to the Seanad returning officer, and no other information. |
| | (3) A decision of the Seanad returning officer shall not be reversed under this section by the appeal board unless a majority of the members present are in favour of the reversal. |
| | (4) The Seanad returning officer shall give to the appeal board such information and assistance in relation to every appeal considered pursuant to this section as the Board may reasonably require of him. |
| | (5) The decision of the appeal board on any appeal considered pursuant to this section shall be final and conclusive. |
| Completion and publication of register of nominating bodies. | 15. —(1) If no appeal under section 13 of this Act is duly made to the appeal board, the Clerk of Dáil Eireann shall, on the day prescribed for this section inform the Seanad returning officer of that fact and the Seanad returning officer shall thereupon sign and publish in the Iris Oifigiúil the register of nominating bodies prepared by him under the foregoing provisions of this Act. |
| | (2) If any appeal is duly made under section 13 of this Act to the appeal board, the board shall communicate to the Seanad returning officer their decision (if any) on every such appeal and the Seanad returning officer shall thereupon make such (if any) amendment in the register of nominating bodies prepared by him under the foregoing provisions of this Part of this Act as may be necessary to give effect to such decision and, when all such appeals have been decided and the decisions (if any) thereon have been communicated to and dealt with by the Seanad returning officer, the Seanad returning officer shall sign the register of nominating bodies as so prepared and amended (if at all) by him as aforesaid and shall publish it in the Iris Oifigiúil as soon as conveniently may be. |
| | (3) The register of nominating bodies as published in the Iris Oifigiúil in pursuance of this section shall be final and conclusive and shall not be open to review by any court and shall be in force for the first Seanad general election held after it is first published and every subsequent Seanad general election, subject only to such annual revision as is provided by this Act. |

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| Annual revision of register of nominating bodies. | 16. —(1) The Seanad returning officer shall, on or after the 1st, but not later than the 15th day of January in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, publish in every morning daily newspaper published in the State and in such other (if any) daily newspapers as, with the sanction of the Minister, he thinks proper a notice in the prescribed form giving public notice that, on the 15th day of February next following or, if that day is a Sunday, the 16th day of February next following, the Seanad returning officer will proceed to revise the register of nominating bodies, and giving such information and instructions in relation to applications for insertion, deletion, or amendment of entries in that register as the Minister thinks proper. |
| | (2) Any body not registered in the register of nominating bodies, which desires to be registered in respect of any particular panel in that register and claims to be eligible for such registration, and any body registered in that register which desires to be removed therefrom, or desires that the entry in respect of it in that register should be amended in any way, may make application in the prescribed form to the Seanad returning officer during the period beginning on the 15th day of January and ending on the 15th day of February in the year after the year of the preparation of the register of nominating bodies or in any subsequent year, for such registration, deletion, or amendment, as the case may be. |
| | (3) On the 15th day of February or, if that day is a Sunday, on the 16th day of February in every year the Seanad returning officer shall revise (in this Act referred to as an annual revision) the register of nominating bodies and for that purpose— |
| | (a) shall examine all applications for registration, deletion or amendment received by him during the period specified in subsection (2) of this section; |
| | (b) shall disallow every application which appears to him to be irregular in form; |
| | (c) shall disallow every application for registration which appears to him to be an application for a registration prohibited by this Act; |
| | (d) shall disallow every application for registration as respects which the applicant fails to satisfy him that the applicant is eligible for registration in respect of the panel to which the application relates; |
| | (e) shall disallow every application for registration made by a body which appears to him to be a branch of or affiliated or subsidiary to a body which is already registered in the register (not being a body whose registration he is deleting) or whose application for such registration he is allowing; |
| | (f) may disallow any application for registration where the registration is proper to be refused having regard to paragraph (d) of subsection (2) of section 8 of this Act; |
| | (g) may disallow any application for registration where the applicant fails or refuses to give any information required of the applicant under this section; |
| | (h) shall allow all such applications for registration as he does not disallow; |
| | (i) shall delete from the register the registration of every body which has duly applied for such deletion; |
| | (j) shall delete from the register the registration of every body which appears to him to have ceased to exist; |
| | (k) shall delete from the register the registration of every body which appears to him to have become a body whose registration is prohibited by this Act; |
| | (l) shall delete from the register the registration of every body which appears to him to have ceased to be eligible for registration; |
| | (m) shall delete from the register the registration of every body which appears to him to be a branch of or affiliated or subsidiary to a body whose application for registration he is allowing; |
| | (n) may make all such amendments in the register as appear to him by virtue of applications under this section or otherwise to be requisite or proper. |
| | (4) The Seanad returning officer may require, from any applicant under this section for registration or amendment, any information relevant to the application which the Seanad returning officer may reasonably consider necessary. |

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| | (5) The Seanad returning officer may make such inquiries as he thinks proper for the purpose of any annual revision of the register of nominating bodies, but he shall not make any deletion or amendment without giving notice thereof to the body whose entry he proposes to delete or amend or without giving such body a reasonable opportunity of making representations in regard thereto unless the deletion or amendment is made by virtue of an application under this section. |
| | (6) Every allowance or disallowance by the Seanad returning officer of any application under this section for registration in, deletion from, or amendment of the register of nominating bodies, and every deletion from or amendment of that register made by the Seanad returning officer at an annual revision otherwise than on an application under this section, shall be final and conclusive, subject only to such appeal as is provided for by this Act. |
| | (7) Nothing in section 9 or section 11 of this Act shall apply in relation to any annual revision of the register of nominating bodies |
| | (8) For the purposes of this and any subsequent section of this Act a body shall be regarded as affiliated to another body when the first-mentioned body is a member of or represented on the other body and the objects of the other body include the furtherance of the principal objects of the first-mentioned body |
| Appeals to appeal board in connection with annual revision. | 17. —(1) Not later than the 1st day of March in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, the Seanad returning officer shall— |
| | (a) inform every body which applied for registration in, deletion from, or amendment of the register of nominating bodies at the annual revision in that year whether he allowed or disallowed the application and, in the case of disallowance, his reasons therefor, and |
| | (aa) inform every body which is authorised by paragraph (b) of subsection (2) of this section to appeal against the allowance of an application for registration of his decision to allow such application, and |
| | (b) communicate to every body affected by a deletion from or amendment of the register of nominating bodies made by him at the annual revision in that year otherwise than on an application by such body the particulars of such deletion or amendment and his reasons therefor. |
| | (2) Any of the following persons may appeal to the appeal board against such of the decisions of the Seanad returning officer at an annual revision as are hereinafter specified, that is to say:— |
| | (a) in the case of a disallowance of an application, the body by which the application was made, |
| | (b) in the case of an allowance of an application by a body for registration in respect of any particular panel, any body which applied at the annual revision for registration in respect of the same panel and any nominating body which is registered in respect of the same panel, |
| | (c) in the case of a deletion from or amendment of the register of nominating bodies made by the Seanad returning officer otherwise than on an application under this Act, the body affected by the deletion or amendment. |
| | (3) An appeal under this section to the appeal board shall be made in writing and shall state the grounds on which the appeal is made and shall be delivered or sent by post to the Clerk of Dáil Éireann on or before the 15th day of March in the year in which the decision appealed against was given. |
| | (4) An appeal under this section shall be open to inspection at all convenient times by the Seanad returning officer. |
| | (a) In the case of an appeal referred to in paragraph (a) of subsection (2) of this section— |
| | (i) the appellant shall send a copy of the appeal by registered post to every body which appears to the Seanad returning officer to be a branch of or affiliated or subsidiary to it and which either is registered in the register of nominating bodies or has applied at the annual revision for registration therein and shall attach the certificate or certificates of posting to the appeal before it is delivered or sent by post to the Clerk of Dáil Éireann, |

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| | <p>(ii) any body to which a copy of the appeal is required by the foregoing paragraph to be sent may submit comments on the grounds of the appeal and such comments shall be made in writing and shall be delivered to or sent by post so as to reach the Clerk of Dáil Éireann not later than twelve o'clock noon on the 22nd day (being a week-day) or the 21st day (being a Saturday) of March in the year in which the decision appealed against was given, and any such comments which are received by the Clerk of Dáil Éireann after that hour on that day shall not be entertained or considered by the appeal board,</p> <p>and to facilitate compliance with this subsection, the Seanad returning officer shall, on the request of a body proposing to appeal against the disallowance of an application, furnish the body with a statement specifying every body which appears to him to be a branch of or affiliated or subsidiary to the body proposing to appeal and which is registered in the register of nominating bodies or has applied at the annual revision for registration therein.</p> |
| | <p>(b) In the case of an appeal referred to in paragraph (b) of subsection (2) of this section—</p> |
| | <p>(i) the appellant shall send a copy of the appeal by registered post to the respondent, and shall attach the certificate of posting to the appeal before it is delivered or sent by post to the Clerk of Dáil Éireann,</p> |
| | <p>(ii) the respondent may submit comments on the grounds of the appeal and such comments shall be made in writing and shall be delivered to or sent by post so as to reach the Clerk of Dáil Éireann not later than twelve o'clock noon on the 22nd day (being a week-day) or the 21st day (being a Saturday) of March in the year in which the decision appealed against was given, and any such comments which are received by the Clerk of Dáil Éireann after that hour on that day shall not be entertained or considered by the appeal board.”</p> |
| | <p>(5) Where the Seanad returning officer has disallowed under section 16 of this Act an application for registration in respect of a panel because the applicant has failed to satisfy him that the applicant is eligible for such registration, a statement to that effect shall, for the purposes of subsection (1) of this section, be a sufficient statement of the reasons for the disallowance.</p> |
| | <p>(6) Where the Seanad returning officer has deleted under section 16 of this Act the registration of a body on the ground that the body has ceased to be eligible for such registration, a statement to that effect shall, for the purposes of subsection (1) of this section, be a sufficient statement of the grounds for the deletion.</p> |
| Decision of appeals in connection with annual revision. | <p>18.—(1) The appeal board shall consider every appeal duly made to it under section 17 of this Act and shall, in respect of each such appeal, either reverse the decision of the Seanad returning officer which is the subject of the appeal or disallow the appeal.</p> |
| | <p>(2) The appeal board shall, when considering an appeal made under section 17 of this Act, consider—</p> |
| | <p>(a) the grounds for the appeal stated pursuant to subsection (3) of that section, and no other grounds, and</p> |
| | <p>(b) such information (if any) as was made available to the Seanad returning officer, and no other information.</p> |
| | <p>(3) A decision of the Seanad returning officer shall not be reversed under this section by the appeal board unless a majority of the members present are in favour of the reversal.</p> |
| | <p>(4) The Seanad returning officer shall give to the appeal board such information and assistance in relation to every appeal considered in pursuance of this section as the board may reasonably require of him.</p> |
| | <p>(5) The decision of the appeal board on any appeal considered in pursuance of this section shall be final and conclusive.</p> |
| | <p>(6) The decision of the appeal board on any appeal considered in pursuance of this section shall comprise—</p> |
| | <p>(a) if the decision reverses a decision disallowing an application by a body for registration, a direction to the Seanad returning officer for deletion from the register of any other specified registration which appears to the appeal board to be a registration of a body which is a branch of or affiliated or subsidiary to the first-mentioned body, and</p> |

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| | (b) if the decision reverses a decision allowing an application by a body for registration, a direction for registration of any other specified body as respects which, on the current annual revision, a deletion of the registration thereof has come into force or a disallowance of an application for registration thereof has been made, such deletion or disallowance having been solely on the ground that the body was a branch of or affiliated or subsidiary to the first-mentioned body. |
| Completion of annual revision. | 19. —(1) Not later than the 20th day of March in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, the Seanad returning officer shall revise the register of nominating bodies in such manner as may be requisite to give effect to all decisions given by him at the annual revision in that year against which no appeal to the board has been made within the time limited in that behalf by this Act, and every revision so made shall come into force on the 21st day of March of the year in which it is made. |
| | (2) The Clerk of Dáil Éireann shall communicate to the Seanad returning officer every decision by the appeal board on an appeal considered pursuant to section 18 of this Act, and the Seanad returning officer shall forthwith make such (if any) revision of the register of nominating bodies as is necessary to give effect to such decision, and every such revision shall come into force on the day after the day on which it is made. |
| | (3) As soon as any annual revision of the register of nominating bodies has been completed in accordance with this Part of this Act, the Seanad returning officer shall sign and publish in the Iris Oifigiúil the register as revised at the annual revision and the register as so published shall be conclusive evidence of the alterations made in the register at the annual revision. |
| Fee on appeal to appeal board. | 20. —(1) Every body which appeals to the appeal board shall pay to the Clerk of Dáil Éireann a fee of twenty pounds, and the payment of the fee before the expiration of the time limited by this Act for sending or delivering the appeal to the Clerk of Dáil Éireann shall be a condition precedent to the entertainment of the appeal by the appeal board. |
| | (2) Every fee paid to the Clerk of Dáil Éireann in pursuance of this section shall be retained by him until the appeal in respect of which the fee was paid has been decided by the appeal board and— |
| | (a) if the appeal board reverses the decision of the Seanad returning officer which is the subject of the appeal, the Clerk of Dáil Éireann shall forthwith repay the fee to the appellant by whom it was paid to him, and |
| | (b) in every other case, the Clerk of Dáil Éireann shall pay the fee into, or dispose of it for the benefit of, the Exchequer in such manner as the Minister for Finance directs. |
| | (3) The Public Offices (Fees) Act, 1879, shall not apply in respect of fees payable under this section. |
| | The following Part (Part III) is repealed PART III. <i>The Nomination Committees.</i> |
| Formation and maintenance of nomination committees. | 21. —(1) There shall be formed and maintained in respect of each panel a standing committee to be known and in this Act referred to as the nomination committee for that panel. |
| | (2) A nominating body which is for the time being registered in the register of nominating bodies shall be entitled to appoint five members of the nomination committee for the panel in respect of which such nominating body is so registered. |
| | (3) The Seanad returning officer shall establish as soon as may be after the publication pursuant to section 15 of this Act of the register of nominating bodies, and shall thereafter maintain, a register with respect to each nomination committee stating the members thereof and each such register shall be conclusive evidence of the membership of the committee to which it relates. |

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| | (4) A register maintained under subsection (3) of this section of the members of a nomination committee shall state, in respect of every such member, his postal address as stated in his appointment or as subsequently communicated by him under this Act, and every notice required by this Act to be sent by the Seanad returning officer to any such member shall be sent by prepaid post addressed to him at his postal address as so stated. |
| | (5) The quorum of a nomination committee shall be one-fourth of the members thereof or three members (whichever is the greater). |
| Appointment of members of nominating committee. | 22. —(1) A nominating body which is registered in the register of nominating bodies on the publication of that register pursuant to section 15 of this Act shall, as soon as may be after such publication, appoint five persons to be members of the nomination committee for the panel in respect of which such body is so registered. |
| | (2) A body which becomes, after the publication of the register of nominating bodies pursuant to section 15 of this Act, registered as a nominating body in that register shall, as soon as may be after it becomes so registered, appoint five persons to be members of the nomination committee for the panel in respect of which such body is so registered. |
| | (3) Where a member appointed by a nominating body of a nomination committee ceases to be such member by reason of death, being adjudicated a bankrupt or convicted of an indictable offence, or ceasing to be a member of the body, the body shall as soon as conveniently may be appoint a person to fill the vacancy. |
| | (4) An appointment of a member of a nomination committee by a nominating body shall— |
| | (a) be made in writing, and |
| | (b) if the nominating body is a body corporate, have the seal of the body affixed thereto in the manner and with the counter-signatures required by the constitution, articles of association, or other regulations of the body or if the nominating body is not a body corporate, be signed in the name of the body by some person having authority to sign in that name, and |
| | (c) state the name, postal address, and description of the appointee and contain a statement, signed by the appointee, that he assents to the appointment, and |
| | (d) be sent to the Seanad returning officer by such nominating body, and |
| | (e) have effect as from the time at which it is received by the Seanad returning officer. |
| | (5) Where the first appointment by a nominating body of members of a nomination committee is made at an annual meeting of the body, the body shall at that meeting appoint the day for its next annual meeting and the day appointed shall be notified to the Seanad returning officer and shall be not more than four hundred days and not less than three hundred and thirty days after the day on which the appointment is made. |
| | (6) Where the first appointment by a nominating body of members of a nomination committee is made at a meeting which is not an annual meeting, the meeting shall be a meeting specially called for the purpose of making such appointment. |
| | (7) The second and any subsequent appointment by a nominating body of members of a nomination committee shall be made at an annual meeting of the body, and the body shall at every such meeting appoint the day for its next annual meeting and the day appointed shall be notified to the Seanad returning officer and shall be not more than four hundred days and not less than three hundred and thirty days after the day on which the appointment is made. |
| | (8) Any member of a nomination committee may at any time inform the Seanad returning officer in writing of a change in his postal address and thereupon the Seanad returning officer shall enter the change of address in the register of the members of the committee. |
| Tenure of office of member of nomination committee. | 23. —(1) A member appointed by a nominating body of a nomination committee shall cease to hold office as such member on the happening of any of the following events, and in no other circumstances, that is to say:— |
| | (a) — the expiration of the day before the day of the annual meeting of the body next occurring after his appointment; |
| | (b) — his death; |
| | (c) — his being adjudicated bankrupt or convicted of an indictable offence; |
| | (d) — his ceasing to be a member of the body; |
| | (e) — the body ceasing to be a nominating body registered in the register of nominating bodies in respect of the relevant panel. |

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| | {2} A member of a nomination committee ceasing to hold office as such member by reason of the expiration of the day before the day of an annual meeting of the nominating body which appointed him shall be eligible for re-appointment. |
| | PART IV. Seanad General Election. Chapter I. <i>Seanad General Election Order.</i> |
| Seanad general election order. | 24. —(1) Before every Seanad general election, the Minister shall by order (in this Act referred to as a Seanad general election order) appoint for the purposes of the election:— |
| | (a) the day and hour (in this Act referred to as the expiration of the time for general panel proposed nominations) on and at which the period during which the Seanad returning officer may receive proposals for nominations to the panels by nominating bodies will expire; |
| | (b) the day and hour (in this Act referred to as the expiration of the time for Oireachtas panel nominations) on and at which the period during which the Seanad returning officer may receive nominations to the panels by members of the Oireachtas will expire; |
| | (c) the days on which and the places and hours at which the nominating committee (general election) meetings (so far as they are required to be held) will be held; |
| | (d) the day on which and the place at which the Seanad returning officer will sit for the completion of the panels; |
| | (e) the day on which the ballot papers for the election will be issued; |
| | (f) the day and hour (in this Act referred to as the close of the poll) on and at which the poll at the election will be closed; |
| | (g) the address of the Seanad returning officer to which nomination papers and other communications may be sent to him. |
| | {2} The following provisions shall have effect in relation to a Seanad general election order:— |
| | (a) the order shall be made within seven days after the dissolution of Dáil Éireann which occasions the election; |
| | (b) the day appointed by the order for the expiration of the time for general panel proposed nominations shall not be less than four weeks after such dissolution and, where practicable, shall not be prior to the date fixed for the reassembly of Dáil Éireann after such dissolution; |
| | (c) the day appointed by the order for the expiration of the time for Oireachtas nominations shall not be less than seven days after the day appointed by the order for the expiration of the time for general panel nominations and, where practicable, shall be subsequent to the date fixed for the reassembly of Dáil Éireann after such dissolution; |
| | (d) the order shall be published in the Iris Oifigiúil as soon as may be after it is made. |
| | Chapter II. Formation of the Panels. |
| Nomination to panels by members of Oireachtas. | 25. —(1) At a Seanad general election, any person may be nominated in accordance with this Act by not less than four members of the Oireachtas to any of the panels constituted for that election. |
| | {2} A member of the Oireachtas shall not join in the nomination under this section of more than one person at any particular Seanad general election. |

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| | (3) For the purposes of subsections (1) and (2) of this section with respect to the nominations at a Seanad general election in a in which a further dissolution of Dáil Éireann has occurred after the dissolution which occasioned that Seanad general election, the further dissolution of Dáil Éireann shall be deemed not to have occurred. |
| Proposals for nominations to panel by registered nominating bodies. | 26. —(1) At a Seanad general election, a nominating body which is registered in the register of nominating bodies in respect of a particular panel shall be entitled to propose for nomination to the panel such number of persons as is provided in that behalf by this section. |
| | (2) The number of persons which may be proposed for nomination to a particular panel by each nominating body registered in the register of nominating bodies in respect of the panel shall be the number obtained by dividing the appropriate number (as defined in subsection (2) of section 34 of this Act) by the total number of nominating bodies so registered if the number so obtained is a whole number, or, if it is not a whole number, the next higher whole number of persons. |
| Method of proposal for nomination by nominating body. | 27. —(1) Within ten days after a dissolution of Dáil Éireann, the Seanad returning officer shall send by post to every nominating body registered in the register of nominating bodies a form of proposal for nomination paper and also a notice in the prescribed form informing the body of its right to propose persons for nomination to a specified panel and of the number of persons which it is entitled so to propose and giving to the body such information and instructions in relation to the making of the proposals for nomination as the Minister thinks proper to prescribe. |
| | (2) A proposal for nomination to a panel by a nominating body shall be made in accordance with the following provisions:— |
| | (a) the proposal shall be made in writing on a proposal for nomination paper in the prescribed form; |
| | (b) the nominating body shall propose by one and the same proposal for nomination paper all the persons which it is entitled to propose; |
| | (c) the proposal for nomination paper shall contain the particulars required by the prescribed form of proposal for nomination paper to be stated therein (including a statement of the qualifications of every person thereby proposed for the panel to which he is proposed) and shall be signed by the nominating body; |
| | (d) where the nominating body is a body corporate, the proposal for nomination paper shall be signed by the body by affixing to such paper the seal of the body in the manner and with the counter signatures required by the constitution, articles of association, or other regulations of the body; |
| | (e) where the nominating body is not a body corporate, the proposal for nomination paper shall be signed in the name of the body by some person having authority to sign in that name. |
| | (3) In the case of the Irish County Councils' General Council and in the case of the Association of Municipal Authorities of Ireland, the persons to be proposed for nomination to the administrative panel by those bodies respectively shall be chosen by the members of the body voting on the system of proportional representation by means of the single transferable vote. |
| | (4) A proposal for nomination paper which purports to be sealed with the seal of a body corporate which is a nominating body and to be countersigned shall, until the contrary is proved, be deemed to have been so sealed in the manner and with the counter-signatures required by the constitution, articles of association, or other regulations of the body. |
| | (5) A proposal for nomination paper which purports to be signed in the name of an unincorporated body which is a nominating body shall, until the contrary is proved, be deemed to have been so signed by a person having authority to sign in that name. |
| | (6) Where a nominating body purports to propose for nomination by a proposal for nomination paper more persons to a panel than the body is entitled so to propose, the proposal for nomination paper shall be wholly void. |
| | (7) The Seanad returning officer shall furnish free of charge on request to a nominating body such number of forms of proposal for nomination paper (in addition to the form which he is required by subsection (1) of this section to send to the body) as the body reasonably requires. |

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| Preparation of nominating bodies lists. | 28. —(1) A proposal for nomination paper by which a person or persons is or are proposed for nomination at a Seanad general election by a nominating body shall be delivered or sent by post to the Seanad returning officer. |
| | (2) Immediately after the expiration of the time for general panel proposal nominations, the Seanad returning officer shall prepare, in respect of each panel, a list (in this Act referred to as a nominating bodies list) in the prescribed form of the persons in respect of whom he has received, before the expiration of the said time, proposals for nominations to such panel by nominating bodies. |
| | (3) In preparing the nominating bodies lists, the Seanad returning officer shall not— |
| | (a) include the name of a person whose proposal for nomination has been received after the expiration of the time for general panel proposed nominations, |
| | (b) include the name of a person whose proposal for nomination is declared by this Act to be wholly void, or |
| | (c) include the name of a person more than once in the same list. |
| Method of nomination by members of Oireachtas. | 29. —(1) A nomination at a Seanad general election by members of the Oireachtas shall be made in accordance with the following provisions: |
| | (a) the nomination shall be made in writing on a nomination paper in the prescribed form; |
| | (b) the nomination paper shall contain the particulars required by the prescribed form of nomination paper to be stated therein, including a statement of the qualifications of the person thereby nominated for the panel to which he is so nominated; |
| | (c) the nomination paper shall be signed by each of the members of the Oireachtas making a nomination thereby; |
| | (d) the nomination paper shall be delivered or sent by post to the Seanad returning officer. |
| | (2) If a member of the Oireachtas signs as a nominator two or more nomination papers, both or all of the nomination papers shall be wholly void. |
| Preparation of provisional Oireachtas sub-panels. | 30. —(1) Immediately after the expiration of the time for Oireachtas panel nominations, the Seanad returning officer shall prepare, in respect of each panel, a list (in this Act referred to as a provisional Oireachtas sub-panel) in the prescribed form of the persons in respect of whom he has received, before the expiration of the said time, nominations to such panel by members of the Oireachtas. |
| | (2) In preparing the provisional Oireachtas sub-panels, the Seanad returning officer shall not:— |
| | (a) include the name of a person whose nomination has been received after the expiration of the time for Oireachtas panel nominations, |
| | (b) include the name of a person whose nomination is declared by this Act to be wholly void, or |
| | (c) include the name of a person more than once in the same sub-panel. |
| Publication and inspection of proposal for nomination papers and nomination papers. | 31. —Where the Seanad returning officer receives a proposal for nomination paper or a nomination paper at a Seanad general election (other than a paper declared by this Act to be wholly void or a paper so received after the time limited by this Act for such receipt)— |
| | (a) the Seanad returning officer shall forthwith post up, in such public place in the county borough of Dublin as he considers most suitable, a notice stating the fact of the receipt by him of the paper and the name, address and description (as stated in the paper) of the person purported to be proposed or nominated by the paper and the panel to which such person purports to be so proposed or nominated, |
| | (b) the Seanad returning officer shall hold the paper available for inspection by candidates between the hours of 10 a.m. and 1 p.m. on week-days during the period beginning on the day after the day of the receipt of the paper and ending on the day before the day of the completion or resumption of the panels (as may be appropriate) of the panels. |

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| | The following sections (32, 33, 34 and 35) are repealed |
| Nomination committee (general election) meeting. | 32. —A meeting (in this Act referred to as a nomination committee (general election) meeting) of the nomination committee for a panel for which there are three or more nominating bodies shall be held on the day and at the place and hour appointed in that behalf by a Seanad general election order and, at least seven days before the meeting, the Seanad returning officer shall send by post, to each person named in the electoral roll constituted under section 33 of this Act for the meeting, a notice in the prescribed form with respect to the holding of the meeting. |
| Electoral roll for nomination committee (general election) meeting. | 33. —(1) Where a nomination committee (general election) meeting is to be held, the Seanad returning officer shall prepare, from the register under section 21 of this Act, a list stating the names, addresses and description of the members of the nomination committee and the list shall be the electoral roll for the purposes of the meeting and shall be final and conclusive. (2) The several persons named in the electoral roll constituted under this section for a nomination committee (general election) meeting (and no other person) shall be entitled to vote at the poll at the meeting. (3) The death of a person named in an electoral roll constituted under this section shall not prejudice or affect the validity or operation of the electoral roll. |
| Procedure at a nomination committee (general election) meeting. | 34. —(1) The following provisions shall have effect in relation to every nomination committee (general election) meeting:— |
| | (a) — the Seanad returning officer shall preside at the meeting and shall conduct the proceedings thereof; |
| | (b) — the proceedings shall commence at the time appointed for the meeting by the relevant Seanad general election order if there is then a quorum or, if there is not then a quorum, when there is a quorum; |
| | (c) — the Seanad returning officer and his assistants and the persons named in the electoral roll constituted for the meeting under section 33 of this Act, and no other person, may be present at the meeting; |
| | (d) — each member of the nomination committee attending the meeting shall, when or as soon as may be after he enters the meeting, sign his name in a book or other record (to be provided and kept by the Seanad returning officer) of attendances; |
| | (e) — a poll shall be held for the purpose of selecting, from the persons included in the nominating bodies list in respect of the relevant panel, the appropriate number of persons to be included in the provisional nominating bodies sub-panel in respect of that panel; |
| | (f) — for the purposes of the poll, the Seanad returning officer shall make available such ballot boxes, desks, and other furniture as he considers necessary and also provide a sufficient number of ballot papers; |
| | (g) — the Seanad returning officer shall close the poll at the expiration of two hours from the time at which it was opened; |
| | (h) — a person shall not be entitled to receive a ballot paper unless or until he has signed his name under paragraph (d) of this subsection; |
| | (i) — a person in giving his vote must place on the ballot paper the figure 1 opposite the name of the person for whom he votes, and he may in addition place on the ballot paper the figures 2 and 3, or 2, 3 and 4, and so on opposite the names of other persons in the order of his preference: |
| | (j) any ballot paper— |
| | (i) — in which the figure 1 standing alone is not placed at all or is not so placed as to indicate a first preference, or |
| | (ii) — on which the figure 1 standing alone indicating a first preference is set opposite more than one name, or |
| | (iii) — on which the figure 1 standing alone indicating a first preference and some other number is set opposite a name, |
| | shall be invalid and shall not be counted; |

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| | (k) — the Seanad returning officer shall take all such steps as he considers proper or expedient for preserving the secrecy of the voting at the poll; |
| | (l) — every question which arises at or in relation to the taking of the poll shall be decided by the Seanad returning officer and his decision on any such question shall be final and unappealable; |
| | (m) — at the close of the poll, the Seanad returning officer shall ascertain, in accordance with this Act and, in particular, the rules contained in the Second Schedule to this Act, the result of the poll and shall announce such result to the candidates then present (if any); |
| | (n) — the Seanad returning officer and his assistants and the candidates (or their duly appointed representatives), and no other person, shall be entitled to be present at the ascertainment of the result of the poll. |
| | (2) In subsection (1) of this section, the expression “the appropriate number” means:— |
| | (a) — in the case of the cultural and educational panel—six; |
| | (b) — in the case of the agricultural panel or the labour panel—fourteen; |
| | (c) — in the case of the industrial and commercial panel—twelve; |
| | (d) — in the case of the administrative panel—eight. |
| Preparation of provisional nominating bodies sub-panels. | 35. —(1) The Seanad returning officer shall, as soon as conveniently may be after a nomination committee (general election) meeting, prepare a list (in this Act referred to as a provisional nominating bodies sub-panel) in the prescribed form of the persons selected at such meeting. |
| | (2) Where there is one nominating body, and no more, or there are two nominating bodies, and no more, for a panel, the Seanad returning officer shall, as soon as conveniently may be after the preparation under subsection (6) of section 28 of this Act of a nominating bodies list in respect of the panel, prepare a list (in this Act also referred to as a provisional nominating bodies sub-panel) of the persons included in such nominating bodies list. |
| The completion of the panels. | 36. —(1) At eleven o’clock in the morning on the day and at the place appointed in that behalf by a Seanad general election order, the Seanad returning officer shall attend and hold a sitting (in this Act referred to as the completion of the panels) at which he shall do all such things as he is required by the subsequent provisions of this Act to do at such sitting. |
| | (2) At the completion of the panels, the Seanad returning officer shall proceed as follows:— |
| | (a) he shall group the provisional Oireachtas sub-panels and the provisional nominating bodies sub-panels into five groups, each group consisting of a provisional Oireachtas sub-panel and a provisional nominating bodies sub-panel in respect of the same panel; |
| | (b) as respects each of the groups of sub-panels— |
| | (i) he shall examine each nomination paper in pursuance of which a person was entered in either sub-panel, shall rule upon the validity or invalidity of each nomination paper and the validity or invalidity of the nomination purported to be made thereby and shall delete from the sub-panels every entry made therein in pursuance of a nomination paper or a nomination which he decides to be invalid, |
| | (ii) he shall examine the qualifications of each person whose name remains on the sub-panels after the said deletions and shall delete from the sub-panels the name of every person in respect of whom he is not satisfied that such person is qualified under subsection 1° of section 7 of Article 18 of the Constitution to be on the panel to which the sub-panels relate, |
| | (iii) he shall, in respect of every person whom he determines to be qualified to be on such panel, enter in the relevant sub-panel a statement, in such form as he thinks proper, of the qualifications which he determines to be in fact the qualification of such person to be on such panel, |
| | (iv) he shall then delete all duplicate entries remaining on the sub-panels and shall for that purpose give preference to a nomination by a nominating body; |

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| | (c) if, when the provisions of paragraph (b) of this subsection have been complied with, any person is found to be entered in two or more groups of sub-panels— |
| | (i) the Seanad returning officer shall retain the name of such person on such one of the groups as such person or his agent elects, |
| | (ii) if such person or his agent (as the case may be) refuses or fails to elect or neither such person nor his agent is present or reasonably available, the Seanad returning officer shall retain the name of such person in such one of the groups of sub-panels as the Seanad returning officer determines by lot, |
| | (iii) the Seanad returning officer shall delete the name of such person from all the groups of sub-panels except that on which he is required, by whichever of the foregoing subparagraphs of this paragraph is applicable, to retain the name of such person. |
| | (3) In carrying out the provisions of this Act in relation to the proceedings at the completion of the panels, the Seanad returning officer shall have due regard to all decisions of the judicial referee on questions referred to him under this Act by the Seanad returning officer. |
| | (4) A decision by the Seanad returning officer at the completion of the panels shall be final and conclusive subject only to such reference to the judicial referee as is provided for by this Act. |
| Nominations by the Taoiseach to complete provisional sub-panels. | 37. —(1) If, when the provisions of section 36 of this Act, have been complied with, the number of persons whose names are entered in any provisional sub-panel does not exceed by at least two the maximum number of members of Seanad Éireann permitted by this Act to be elected therefrom, the Seanad returning officer shall adjourn to a convenient day and hour the further proceedings at the completion of the panels and shall report to the Taoiseach the deficiency in the said provisional sub-panel and furnish to the Taoiseach a copy of the provisional sub-panels as settled immediately before the adjournment. |
| | (2) Upon receiving a report under subsection (1) of this section, the Taoiseach shall nominate to every provisional sub-panel in respect of which he receives the report such number of persons as will be sufficient to bring the number of persons on the provisional sub-panel up to a number exceeding by two (and no more) the maximum number of members of Seanad Éireann permitted by this Act to be elected therefrom. |
| | (3) Where the Taoiseach is required by subsection (2) of this section to make nominations to a provisional sub-panel, it shall be lawful for him to make additional nominations to such provisional sub-panel in excess of the number of nominations required by that subsection, but the additional nominations shall be substitutional only and shall be operative only if and so far as is requisite by reason of the invalidity of one or more of the other nominations made by the Taoiseach under this section to such provisional sub-panel. |
| | (4) A nomination made by the Taoiseach under this section shall be made in accordance with the following provisions:— |
| | (a) the nomination shall be made in writing on a nomination paper in the prescribed form; |
| | (b) the nomination shall be made by a separate nomination paper; |
| | (c) the nomination paper shall state the sub-panel in respect of which the nomination is made and shall also contain the particulars required by the said prescribed form of nomination paper to be stated therein (including a statement of the qualifications of the person thereby nominated for the panel to which he is so nominated) and shall be signed by the Taoiseach; |
| | (d) the nomination paper shall be delivered or sent to the Seanad returning officer and shall be so sent or delivered that it is received by the Seanad returning officer before the time to which the completion of the panels was adjourned under subsection (1) of this section. |

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| | (5) On the resumption of the completion of the panels after the adjournment thereof under subsection (1) of this section, the Seanad returning officer shall consider and rule upon the nominations made by the Taoiseach under this section (including examining and ruling upon the qualifications of every person so nominated for the panel to which he is so nominated) and shall enter in the proper place in the proper provisional sub-panel the name, address, and description of every person whom he finds to be validly so nominated, together with a statement, in such form as he thinks proper, of the qualifications which he determines to be in fact the qualifications of such person to be on such panel. |
| The judicial referee at completion of panels. | 38. —(1) The President of the High Court or some other judge of the High Court nominated by him shall attend at the completion of the panels and there sit and act as judicial referee. |
| | (2) The Seanad returning officer may, on his own motion, and shall, if so requested by any person whose name is on a provisional sub-panel for the time being under consideration or by the agent of any such person, refer to the judicial referee any question arising during the completion of the panels in relation to any nomination paper, the nomination of any person to a panel, the qualifications of any person for a panel, the statement by the Seanad returning officer of such qualification, or any other matter connected with the provisional panels. |
| | (3) The judicial referee shall there and then decide and announce his decision on every question referred to him under this section by the Seanad returning officer. |
| | (4) The decision of the judicial referee on any question referred to him under this section by the Seanad returning officer shall be final and conclusive and shall not be open to review by any court. |
| | (5) A question may be referred to the judicial referee under this section whether the Seanad returning officer has or has not himself given a decision thereon. |
| Questions which may be raised at completion of panels. | 39. —(1) Subject to compliance (where appropriate) with subsection (2) of this section, at the completion of the panels every question relevant to the nomination of a person to a panel, including the validity of nomination papers, the sufficiency or the correctness of any statement in a nomination paper, the validity or the disqualification of any nomination and the qualifications of any person for any panel, may be raised by the Seanad returning officer or by any person whose name is on a provisional sub-panel for the time being under consideration or by the agent of any such person. |
| | (2) Where a person other than the Seanad returning officer proposes to raise a question at the completion of the panels, he shall deliver a statement of the question and of the grounds therefor to the Seanad returning officer at least two days before the day of the completion of the panels. |
| | (3) Where the identity of the person purported to be nominated by a nomination paper is free from doubt, the nomination paper shall not be rejected or declared invalid merely because of an error in, or the incompleteness of, the statement therein of the name, address or description of such person. |
| | (4) The Seanad returning officer may, for the purpose of deciding any question at issue during the completion of the panels, receive and act upon evidence, whether oral or written, tendered to him by or on behalf of any person affected by such question, and may, if he so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath. |
| | (5) The judicial referee may, for the purpose of deciding any question referred to him during the completion of the panels, receive and act upon evidence, whether oral or written, tendered to him by or on behalf of any person affected by such question (being, save where the judicial referee otherwise allows, evidence which was made available to the Seanad returning officer), and may, if he so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath. |
| Persons permitted to attend completion of panels. | 40. —The following (and no other) persons shall be entitled to be present at the completion of the panels:— |
| | (a) the Seanad returning officer and his assistants; |
| | (b) the judicial referee and one person brought by him to attend on him; |
| | (c) any person whose name is on a provisional sub-panel; |
| | (d) one agent of each person whose name is on a provisional sub-panel; |
| | (e) witnesses giving oral evidence, but only while giving such evidence; |
| | (f) such other persons as the Seanad returning officer thinks proper to admit. |

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| Continuity of proceedings at completion of panels. | 41. —(1) The proceedings at the completion of the panels shall, so far as practicable, be proceeded with continuously, but may at any time be suspended by the Seanad returning officer, with the consent of the judicial referee, for such period as the Seanad returning officer thinks proper for refreshment, night-time or other reason appearing to him to be sufficient. |
| | (2) Whenever the proceedings at the completion of the panels are suspended under this section, the Seanad returning officer shall take all proper precautions for the security of the nomination papers, provisional sub-panels and other relevant documents. |
| Death or disqualification of a candidate. | 42. —(1) Where, before the expiration of the time for general panel proposed nominations, a nominating body satisfies the Seanad returning officer that a person proposed for nomination to a panel by the body has died or become disqualified for membership of Seanad Eireann, the Seanad returning officer shall forthwith cancel the proposal for nomination of such person, and thereupon such proposal for nomination shall be deemed for the purposes of this Act never to have been received by the Seanad returning officer and it shall be lawful for the body to propose for nomination in accordance with this Act a person to the panel in the place of the person who has died or become disqualified. |
| | (2) Where, before the expiration of the time for Oireachtas panel nominations, the Seanad returning officer is satisfied that a person nominated to a panel by members of the Oireachtas has died or become disqualified for membership of Seanad Eireann, the Seanad returning officer shall forthwith cancel such nomination and thereupon it shall be deemed never to have been made. |
| | (3) In the counting of the votes cast at a Seanad general election, all the preferences recorded for a candidate named in a panel of whose death (whether before or after the completion of the panel) the Seanad returning officer is satisfied before the close of the poll shall be disregarded and regard shall be had in lieu thereof to the next available preferences. |
| | (4) Subject to the foregoing provisions of this section, the fact that a candidate named in a panel has (whether before or after the close of the poll) died or become disqualified for membership of Seanad Eireann shall not invalidate or prejudice the panel or the nomination of the candidate thereto or any preferences recorded for him, and, if he is elected, his election shall not be invalidated by reason of his having so died or become disqualified but he shall be deemed to have vacated his membership of Seanad Eireann immediately after his said election thereto. |
| Preparation and publication of the panels. | 43. —(1) When, at the completion of the panels, the proceedings provided for in the foregoing sections of this Act have been completed, the Seanad returning officer shall prepare the five panels, each of which shall consist of a list (arranged in accordance with the subsequent provisions of this section) of the persons who have been found to be validly nominated thereto. |
| | (2) Each of the panels shall be divided into two parts (in this Act referred to as sub-panels) one of which (in this Act referred to as the nominating bodies sub-panel) shall consist of a list of the persons nominated thereto by nominating bodies, and the other of which (in this Act referred to as the Oireachtas sub-panel) shall consist of a list of the persons nominated thereto by members of the Oireachtas. |
| | (3) The persons named in a panel shall be described therein by their names, addresses and descriptions as stated in their respective nomination papers, and there shall be added to the description of every such person a statement of his qualifications for such panel as entered in the relevant provisional sub-panel in pursuance of the foregoing provisions of this Act. |
| | (4) The persons named in a part of a panel shall be arranged in such part in the alphabetical order of their surnames and, in the case of identity of surnames, of their other names. |
| | (5) When the Seanad returning officer has prepared the five panels he shall publish them in the <i>Iris Oifigiúil</i> by notice containing a copy of the panels with the addition of a statement in respect of every person on any panel of the body or persons on whose nomination he was put on such panel. |
| | (6) The several panels as prepared and published by the Seanad returning officer in pursuance of this section shall be final and conclusive and not open to review by any Court. |

| | Chapter II. <i>Nominating Bodies Sub-panel Casual Vacancies.</i> |
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| Obligation to hold nomination committee (bye-election) meeting. | 58A. (1) Where the Minister makes a Seanad bye-election order in respect of a casual vacancy in the membership of Seanad Éireann which is stated in such order to be a vacancy in respect of the nominating bodies sub-panel of a particular panel— |
| | (a) the Seanad returning officer shall hold, in accordance with this Act, an election to fill the vacancy, |
| | (b) a nominating body which is registered in the register of nominating bodies in respect of such panel shall be entitled to nominate one candidate for election, and |
| | (c) within ten days after the making of such order, the Seanad returning officer shall send by post to every nominating body registered in the register of nominating bodies in respect of such panel a form of nomination paper and also a notice in the prescribed form informing the body of its right to nominate one candidate for election and giving to the body such information and instructions in relation to the making of the nomination as the Minister thinks proper to prescribe. |
| | (2) A nomination such as aforesaid shall be made in accordance with the following provisions: |
| | (a) the nomination shall be made in writing on a nomination paper in the prescribed form; |
| | (b) the nomination paper shall contain the particulars required by the prescribed form of nomination paper to be stated therein, and in particular, a statement of the qualification of the person thereby nominated for the panel mentioned in the relevant Seanad bye-election order, and shall be signed by the nominating body; |
| | (c) where the nominating body is a body corporate, the nomination paper shall be signed by the body by affixing to such paper the seal of the body in the manner and with the counter-signatures required by the constitution, articles of association, or other regulations of the body; |
| | (d) where the nominating body is not a body corporate, the nomination paper shall be signed in the name of the body by some person having authority to sign in that name; |
| | (e) the nomination paper shall be delivered to or sent by post to the Seanad returning officer. |
| | (3) In the case of the Irish County Councils' General Council or the Association of Municipal Authorities of Ireland, the person nominated under this section shall be chosen by the members of the body voting on the system of proportional representation by means of the single transferable vote. |
| | (4) A nomination paper which purports to be sealed with the seal of a body corporate which is a nominating body and to be countersigned shall, until the contrary is proved, be deemed to have been so sealed in the manner and with the counter-signatures required by the constitution, articles of association, or other regulations of the body. |
| | (5) A nomination paper which purports to be signed in the name of an unincorporated body which is a nominating body shall, until the contrary is proved, be deemed to have been so signed by a person having authority to sign in that name. |
| | (6) Where a nominating body purports to nominate more than one person by the same nomination paper or by separate nomination papers, the nomination paper or nomination papers shall be wholly void. |
| | (7) The Seanad returning officer shall furnish free of charge on request to a nominating body such number of forms of nomination paper (in addition to the form which he is required by subsection (1) of this section to send to the body) as the body may reasonably require. |

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| | (8) The provisions of subsections (2), (3), (4) and (6) of section 67 and of sections 68, 68A, 69, 70, 71, 72, 73, 74 and 75 of this Act shall apply in relation to a nominating bodies sub-panel casual vacancy in like manner as they apply in relation to an Oireachtas sub-panel casual vacancy.” |
| | Chapter IV. <i>General Provisions in respect of every ruling upon nomination under Chapter III.</i> |
| The judicial referee at ruling upon nomination. | 76. —(1) The President of the High Court or some other judge of the High Court nominated by him shall attend at every ruling upon nomination held under this Part of this Act and shall there sit and act as judicial referee. |
| | (2) The Seanad returning officer may, on his own motion, and shall, if so requested by the person who is named in the relevant certificate of provisional election or whose nomination is required by this Act to be ruled upon at the ruling upon nomination or by the agent of any such person, refer to the judicial referee any question arising during the ruling upon nomination in relation to any nomination paper, the nomination of any person, the qualifications of any person for the relevant panel, the statement by the Seanad returning officer of such qualifications, or any other matter connected with the nomination of any person. |
| | (3) The judicial referee shall there and then decide and announce his decision on every question referred to him under this section by the Seanad returning officer. |
| | (4) The decision of the judicial referee on any question referred to him under this section by the Seanad returning officer shall be final and conclusive and shall not be open to review by any court. |
| | (5) A question may be referred to the judicial referee under this section whether the Seanad returning officer has or has not himself given a decision thereon. |
| Questions which may be raised at ruling upon nomination. | 77. —(1) Subject to compliance (where appropriate) with subsection (2) of this section, at any ruling upon nomination held under this Part of this Act every question relevant to the nomination of any person, including the validity of nomination papers, the sufficiency or the correctness of any statement in a nomination paper, the validity of any nomination, and the qualifications or disqualification of any person for the relevant panel, may be raised by the Seanad returning officer or by the person who is named in the relevant certificate of provisional election or whose nomination is required by this Act to be ruled upon at such ruling upon, nomination or by the agent of any such person. |
| | (2) Where a person other than the Seanad returning officer proposes to raise a question at any ruling upon nomination held under this Part of this Act, he shall deliver a statement of the question and of the grounds therefor to the Seanad returning officer at least two days before the day of the ruling upon nomination. |
| | (3) Where the identity of the person purported to be nominated by a nomination paper is free from doubt, the nomination paper shall not be rejected or declared invalid merely because of an error in, or the incompleteness of, the statement therein of the name, address, or description of such person. |
| | (4) The Seanad returning officer may, for the purpose of deciding any question at issue during a ruling upon nomination held under this Part of this Act, receive and act upon evidence, whether oral or written, tendered to him by or on behalf of any person affected by such question, and may, if he so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath. |
| | (5) The judicial referee may, for the purpose of deciding any question at issue during a ruling upon nomination held under this Part of this Act, receive and act upon evidence, whether oral or written, tendered to him by or on behalf of any person affected by such question (being, save where the judicial referee otherwise allows, evidence which was made available to the Seanad returning officer), and may, if he so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath. |

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| Persons permitted to attend ruling upon nomination. | 78. —The following (and no other) persons may be present at a ruling upon nomination held under this Part of this Act: |
| | (a) the Seanad returning officer and his assistants; |
| | (b) the judicial referee and one person brought by him to attend on him; |
| | (c) the person who is named in the relevant certificate of provisional election or any person whose nomination is required by this Part of this Act to be ruled upon at the ruling upon nomination; |
| | (d) one agent of each of the persons referred to in paragraph (c) of this section; |
| | (e) witnesses giving oral evidence, but only while giving such evidence; |
| | (f) such other persons as the Seanad returning officer thinks proper to admit. |
| Continuity of proceedings at ruling upon nomination. | 79. —(1) The proceedings at a ruling upon nomination held under this Part of this Act shall, so far as practicable, be proceeded with continuously, but may at any time be suspended by the Seanad returning officer, with the consent of the judicial referee, for such period as the Seanad returning officer thinks proper for refreshment, night-time or other reason appearing to him to be sufficient. |
| | (2) Whenever the proceedings at a ruling upon nomination are suspended under this section, the Seanad returning officer shall take all proper precautions for the security of the nomination papers and other relevant documents. |
| Death or Disqualification of Candidate | 79A. (1) Where, before the latest time for receiving nominations at a Seanad bye-election, a nominating body satisfies the Seanad returning officer that a person nominated by the body has died or become disqualified for membership of Seanad Éireann, the Seanad returning officer shall forthwith cancel such nomination and thereupon it shall be deemed never to have been made. |
| | (2) Where, before the latest time for receiving nominations at a Seanad bye-election, the Seanad returning officer is satisfied that a person nominated by members of the Oireachtas has died or become disqualified for membership of Seanad Éireann, the Seanad returning officer shall forthwith cancel such nomination and thereupon it shall be deemed never to have been made. |
| | (3) In the counting of the votes cast at a Seanad bye-election, all the preferences recorded for a candidate of whose death (whether before or after the ruling upon nomination) the Seanad returning officer is satisfied before the close of the poll shall be disregarded and regard shall be had in lieu thereof to the next available preferences. |
| | (4) Subject to the foregoing provisions of this section, the fact that a candidate has (whether before or after the close of the poll) died or become disqualified for membership of Seanad Éireann shall not invalidate or prejudice the nomination of the candidate or any preferences recorded for him and, if he is elected, his election shall not be invalidated by reason of his having so died or become disqualified, but he shall be deemed to have vacated his membership of Seanad Éireann immediately after his said election thereto.” |

APPENDIX 6

SUBMISSIONS RECEIVED BY WORKING GROUP ON SEANAD REFORM

| | | |
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| 1 | Michael Moroney | Individual |
| 2 | John Coman | Secretary to TCD |
| 3 | Adrian Kavanagh | Lecturer, Dept of Geography, Maynooth University |
| 4 | Thomas Creamer | Student, NUI Galway |
| 5 | Richard Logue | London |
| 6 | Daniel Griffin | Student, UCD |
| 7 | Barry Corr | CEO, Irish Australian Chamber of Commerce, Melbourne |
| 8 | Conor Mulvagh | Lecturer in Irish History, UCD |
| 9 | David Meehan | Individual |
| 10 | Brendan Ryan | Former Senator |
| 11 | Treasa Lynch | Individual |
| 12 | Aidan Matthews | Individual |
| 13 | Elizabeth O'Reilly | Individual |
| 14 | David Norris | Senator |
| 15 | Ronan Ó Dálaigh | Individual |
| 16 | Marie Casserly | Independent Councillor |
| 17 | Kevin Cunningham | Individual |
| 18 | Sean Barrett | Senator |
| 19 | Stephen Fitzpatrick BL | Individual |
| 20 | Julie Grace | Individual |
| 21 | Stephen Edward Walsh | Individual |
| 22 | Joe Coughlan | Individual |
| 23 | Fergal Coultry | Individual |
| 24 | Phelim Murnion | Lecturer, GMIT |
| 25 | Margaret Ann Cusack | Individual |
| 26 | Luke Curley | Individual |
| 27 | Francis Donnelly | Individual |
| 28 | Michele Kennedy Tumulty | Individual |
| 29 | James Doyle | Individual |
| 30 | David Cullinane | Sinn Fein |
| 31 | Pamela Byrne | Individual |
| 32 | Miriam & Bev Cotton | Individual |
| 33 | Kevin Dillon | Fianna Fail |
| 34 | Hugh Treacy | Individual |
| 35 | Gillian Morrissey | Individual |
| 36 | Kevin McGee | Individual |
| 37 | Ivana Bacik | Labour Senators |
| 38 | Eoin O'Malley | School of Law & Govt, DCU |
| 39 | Simon Tuohy | Individual |
| 40 | Denis Jennings | Individual |
| 41 | Feargal Quinn | Senator |
| 42 | Seamus Bovaird | Individual |
| 43 | Gerard Craughwell | Senator |
| 44 | Nessa Childers | MEP |
| 45 | Eoin Martin | Individual |
| 46 | Kieran Fitzpatrick | Individual |
| 47 | Second Republic | Second Republic |

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| 48 | Louise Glennon | National Women's Council |
| 49 | Dan Boyle | Green Party |
| 50 | Ruth-Blandina Quinn | Individual |
| 51 | Gary Murphy | Professor of Politics, DCU |
| 52 | James O'Donoghue | Individual |
| 53 | Oliver Moran | Individual |
| 54 | Ian Woods | Ógra Fianna Fáil |
| 55 | Laura Harmon | Union of Students of Ireland |
| 56 | Darren Lehane/Jim O'Callaghan | Drafter of FF Seanad Reform Bill/Deputy Director of Elections for FF in Seanad Referendum |
| 57 | Martin Collins | Irish in Britain |
| 58 | Susan Whelan | Future Matters |
| 59 | Daniel Sullivan | Individual |
| 60 | Gavin Barrett | Professor, UCD Sutherland School of Law |
| 61 | John Carroll | Individual |
| 62 | Gavan Reilly | Individual |
| 63 | Mark Khan | Individual |
| 64 | Wayne Stanley | Individual |
| 65 | David Burns & Conor O'Neill | We're coming back |
| 66 | Noreen Bowden | Global Irish |
| 67 | John Maguire | Royal Irish Academy |
| 68 | Tom Horrigan | Individual |
| 69 | Kieran Coughlan | Former Clerk of the Dail |

Copies of all submissions are available at http://www.taoiseach.gov.ie/eng/Work_Of_The_Department/Protocol/Working_Group_on_Seasad_Reform/

APPENDIX 7

HISTORICAL NOTE ON SENATE OF IRISH FREE STATE

Dr Elaine Byrne

The constitutional origins of the Irish state were innovative.

The Seanad gave constitutional expression to the views of the minority. That minority were not only religious or political by definition but included representatives from the North and Irish living abroad. More women sat in the Seanad than the Dáil.

Senators came from diverse social, cultural and economic backgrounds. Public servants, small farmers and soldiers sat beside a Nobel Laureate, factory owners and trade union representatives. Senators had the legal, business and administrative expertise that the Dáil did not.

The Seanad gave voice to those who were not represented by the Dáil. The diversity of Seanad membership was guaranteed under the 1922 Constitution which provided for three separate election processes. Senators were appointed by the President of the Executive, indirectly elected by TDs and directly elected by popular ballot.

All three processes were governed by Article 30 of the 1922 Constitution which stated that the Seanad, “shall be composed of citizens who shall be proposed on the grounds that they have done honour to the Nation by reason of useful public service or that, because of special qualifications or attainments, they represent important aspects of the Nation’s life.”

The ethos of this diverse Seanad served to consolidate the guiding principles, legislative foundations and institutional structures of the new state. Remarkably, an independent Irish state was established between two world wars in a period when most other new democracies collapsed. The Seanad was influential in asserting the sovereignty of the people.

The contribution of the Seanad to the foundation of the state was commemorated with the ritual of placing a small metal casket on the Cathaoirleach’s desk immediately prior to every session until its final sitting of 19 May 1936. Inside the casket were the words: “Whether we are of an ancient Irish descent, or of later Irish birth, we are united in one people, and we are bound by one lofty obligation to complete the building of our common nation.”

These vocational aspirations of the 1922 Constitution were shared in Bunreacht na hÉireann. Article 18.7.1 decreed that candidates to the Seanad must have “knowledge and practical experience.” The process of nomination and indirect election continued. Direct election was abolished.

The Seanad Electoral (Panel Members) Act, 1947 extended the franchise of indirect election to include senators and councillors, as well as TDs. The Act was significant in that it introduced a separate election and ballot paper for each panel and defined what constituted a nominating body. The method of postal voting was also changed – electors now had to mark and post their ballot papers in the presence of a returning officer. The Act forms the procedures for elections to the Seanad today, with minor modifications made in the Acts of 1954 and 1972.

The historical origins of the Seanad and its subsequent reform share the same philosophy. As a forum of independent and diverse expertise, its purpose is to check and challenge the actions of the government.

The Seanad has always provided expression for the minority, however defined.

The Seanad has always provided expression for Irishmen and women living outside the borders of the State.

The Seanad has always provided expression for Irishmen and women from diverse social, cultural and economic backgrounds.

The Seanad has always sought to incrementally widen its franchise.

The Seanad has always sought to be innovative in how it is elected.